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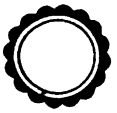
WHY SOME MEN KILL

OR

Murder Mysteries Revealed

George A. Thacher



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WHY SOME MEN KILL

OR

Murder Mysteries Revealed

By

George A. Thacher, LL.B.

President Oregon Prisoner's Aid Society. Chairman Committee on Juvenile Phases of Vice, Portland Vice Commission 1912. Chairman Portland Prison Commission 1913. Author "Feeblemindedness and Crime in Oregon," and other essays.

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Press of Pacific Coast Rescue and Protective Society

JOHN G. H. SIERKS, a medium grade moron, who confessed to killing Mrs. Wehrman and her child in Columbia County, Oregon, in September, 1911, and then repudiated his confession. Chapters 6-13.

JOHN ARTHUR PENDER, who was wrongfully convicted of the murder of Mrs. Wehrman and her child. Mr. Pender has been in different jails and the penitentiary since September 15, 1911.

PREFACE

Some years ago I spent a Sunday afternoon at the Oregon State Penitentiary in Salem with one of the officers of the institution and a "trusty." The latter was a very intelligent man, who had received a college education. The conversation turned to the question of mental defect among the inmates of the institution, who at that time numbered about 340. Neither of my companions was an alienist nor a psychologist but they both knew the men in the institution, and referring to the prison records they named about 70 men who were (in their opinion) defective. The deputy warden, to whom I mentioned the subject of our conversation, said, "Yes, and I could add some to your list."

I did not feel confident that the list was entirely accurate, but I realized that every day association with the prisoners probably made the designation of defective by these men worthy of thoughtful consideration at least. In jotting down the names of these prisoners I asked what offenses they had committed. In this list approximating 70 defective prisoners 36 were serving sentences for rape and of the 36 there were 13 who had raped their own daughters. One prisoner was serving his third term for this same offense. Seventeen of these prisoners were guilty of the offense which has made ancient Sodom a byword through the centuries. Six of these men had committed murder and all of the six were sex perverts.

Naturally these defective beings often have a defective moral sense. My observation has often confirmed that fact. Kraft-Ebing remarks that "this psychic degeneration, however, has a more profound pathological foundation, because often it can be referred to distinct cerebro-pathologic conditions, and often enough is associated with anatomic signs of degeneration.

"The sexual instinct in particular is very frequently abnormal."

It is my purpose in presenting the facts contained in this short volume to bring the matter before the people of the nation, or, at least, before those interested in criminal problems and in social service work.

I also wish to point out the vagaries of the average trial jury in the matter of so-called circumstantial evidence in cases where some terrible crime has been committed and where the evidence

against the accused person is purely inferential, or, to use the legal term, circumstantial.

The investigation of these cases has come to me as president of the Oregon Prisoners' Aid Society. I have also had a commission as Special Agent of the State of Oregon for the past four years, though serving without salary. Governor James Withycombe, who appointed me as Special Agent, had taken a great interest in the Wehrman murder, the Hill sadistic murder, and the Booth murder. He furnished me expense money in the Wehrman murder case and the Hill murder case to the amount of approximately $400, and the vouchers for the itemized expenses of my investigations are on file at the State House. Governor Withycombe also paid a former newspaper man, Mr. Richard C. Lee, to make an independent investigation of the Wehrman murder. He also directed Warden Murphy to make an investigation of William Riggin's confession in the Booth murder case, which was paid for by the state.

I have given a great deal of my time for several years without any charge, as a matter of duty, because I was president of the Oregon Prisoners' Aid Society, to the investigations of the Wehrman murder, the Hill murder and the Booth murder, and I have contributed about $400 towards the expenses of these investigations. The Oregon Prisoners' Aid Society has also contributed over $100 to these investigations, because of the importance of the issues involved. The District Attorney of Multnomah County (Hon. Walter H. Evans) contributed about $30 to the latest phase of the investigation of the Hill murder case involving the confession of William Riggin. Attorney-General Brown has given several days of his time to the consideration of the confessions of William Riggin in the Booth murder case and the Hill murder. These three murders involved the killing of seven persons, and the mysterious circumstances connected with all three cases aroused state-wide interest.

In my personal investigations, the results of which are given in this volume, I have had the advantage of the valuable advice and assistance of W. G. MacLaren, general superintendent of the Pacific Coast Rescue and Protective Society with headquarters at 195 Burnside street, Portland, Oregon.

I have been so fortunate as to find many prominent citizens of the state interested in these murder cases, and men of the highest professional and business standing have taken the time to read carefully the detailed report of the investigation of the

Wehrman murder and to authorize the use of their names to secure the pardon of John Arthur Pender. Among these are the Most Reverend Alexander Christie, Archbishop of Oregon; Honorable Ben Selling, former Speaker of the House of Representatives; Dr. John H. Boyd, pastor of the First Presbyterian Church of Portland; Mrs. Schilke, president of the Oregon Congress of Mothers; C. Henri Labbe, lawyer; Honorable Martin L. Pipes, lawyer; H. E. Coolidge, banker of La Grande; Will H. Daly, ex-City Commissioner of Portland; Milo C. King, lawyer, Gresham, Oregon; Mark Woodruff, journalist, Portland; J. D. Brown, president Oregon Farmers' Union; Eugene E. Smith, former president of labor organizations in Portland, and a number of others.

Judge Pipes, as he is familiarly known, voluntarily prepared a brief for submission to the Governor concerning a pardon for Mr. Pender. Upon my solicitation he consented to its being printed in this volume, and it is to be found in a supplement to Chapter XI.

Quite a large number of public spirited citizens have also studied the report of the investigation of the Booth murder and have authorized the use of their names to secure the pardon of William Branson and Anna Booth.

William D. Wheelwright, president of the Pacific Export Lumber Company, with offices in the Chamber of Commerce, has taken a very keen interest in securing pardons for John Arthur Pender and also for William Branson and Anna Booth. In company with Judge Pipes, Mr. Wheelwright visited the penitentiary, with the Governor's consent, and held long interviews with Mr. Pender, William Branson, Mrs. Booth and William Riggin after studying the briefs of the testimony in the murder trials and the reports of the investigations.

Hon. Frank S. Grant, formerly City Attorney of Portland, has made a study of all the evidence given in the trials of Mr. Pender and of Mr. Branson and Mrs. Booth, and also has examined the reports of the investigations in both cases and expresses his conviction that Mr. Pender, Mr. Branson and Mrs. Booth are innocent of the crimes for which they are spending their lives in the Oregon Penitentiary.

I am indebted to Mr. A. H. Harris for reading the manuscript and making valuable suggestions; also Mr. Thomas A. Hayes.

There are such important issues involved in these murder cases touching the capacity of feeble-minded men for committing

criminal acts, in spite of their apparently harmless natures, that I submitted the material to Dr. Henry H. Goddard, who is recognized as the foremost authority on feeble-mindedness in the United States. Dr. Goddard was for years director of research at the institution for the feeble-minded at Vineland, New Jersey. At the present time he is director of the Bureau of Juvenile Research under the Ohio Board of Administration at Columbus, Ohio. Dr. Goddard has published several books on the subject: "Feeble-Mindedness, Its Causes and Consequences"; "The Kallikak Family," an account of feeble-minded and normal heredity for six generations, beginning with a young man in the revolutionary army who had a child by a feeble-minded girl and who later married a normal woman and left many distinguished descendants. Their histories are compared with his descendants by the feeble-minded girl. He also published "The Criminal Imbecile" describing three feeble-minded murderers, one of whom, by the way, is serving a life sentence in the Oregon Penitentiary at Salem.

Dr. Goddard writes:

"My Dear Mr. Thacher:

"I have read your manuscript very carefully and have been intensely interested in it. I have prepared the enclosed introduction which, if it is of any service to you, you are entirely welcome to use."

The introduction follows.

Portland, Oregon, March 15, 1919,

GEORGE A. THACHER.

INTRODUCTION

The subject matter contained in this book constitutes an important human document. Society has had three stages in its attitude toward crime: The earliest stage was that of revenge, an eye for an eye and a tooth for a tooth—a very primitive view seemingly based upon the conception that the crime and injury were atoned for if the perpetrator was made to suffer in an equal degree. While there are still some people who maintain this primitive way of thinking of crime, society has long since passed into the second stage which was the idea of punishment in order to deter others from committing similar crimes. This view is still held by many although it is recognized by the most thoughtful that both in theory and in fact this is a wrong attitude. It has been proved beyond question that very few if any of our crimes are of such character that the fear of punishment, however great, would deter others from committing them. The third stage which has grown out of a more humanitarian attitude toward our fellowmen is expressed in the declaration that all punishment should be designed to "reform the criminal." And we have been busy, in the most enlightened centers of civiliation, evolving methods for such reform. Even the names of penal institutions have in many instances been changed from prison to reformatory.

We are now beginning to glimpse a fourth stage which is that of a prevention. In other words, we are awakening to the fact the better plan is not to wait until a person has committed crime and then reform him, but to anticipate the crime and prevent its being committed. The social value of such a procedure can not be questioned. The possibility of success, however, has been questioned and is still denied by many persons. It is still declared to be too ideal for practical purposes. Nevertheless it is a proposition that all must admit that if we do not strive for the ideal we will make no progress. The wise procedure is obviously to keep the ideal before us and proceed as fast as we may to ascertain what are the necessary conditions for obtaining the ideal.

Let us then face the question frankly—Can crime be prevented? Logically the answer is clear. It can if we can determine the causes and then remove them. We therefore come at once to the fundamental question—What are the causes of Crime? Some will answer vaguely "human frailty," and con-

clude at once that human frailty is a thing that we shall always have, and, therefore, we shall always have crime. But the conclusion does not follow. It may just as well be argued that we shall always have physical weakness and all those other conditions which result in sickness and disease. Nevertheless, preventive medicine has already accomplished wonders for the comfort and welfare of the human family. The task is no less hopeful on the moral side. We must discover those people who are more than usual subject to these frailties that lead to crime, and if we can not remove the frailties we can at least care for the people that are subject to them so that they will not be likely to fall into crime as the result of their weaknesses. It is now proved beyond question that the one great weakness that leads all the rest put together is weakness of mind.

Mr. Thacher has collected in this book facts in regard to a number of crimes that were clearly due to weakness of mind. He has thus given us a vast amount of data that are of convincing significance to all those persons who are seeking for the facts in this great problem. The recognition of weakness of mind as a potent cause of crime may be considered an unexpectedly pleasant surprise. Unexpected certainly, pleasant because we see at once how easy it may become to prevent it. It is now possible to detect weakness of mind, and it is perfectly clear to those who are familiar with the necessary methods, that the mental weakness of every one of the persons whom Mr. Thacher describes as the real criminals in these cases could have been determined when they were still young and they could have been cared for in such a way that their crimes never would have happened.

The methods of measuring intelligence in children and in adults have now become so perfected that there is no longer any question about them or about the accuracy of the results. The United States Government after most careful and rigid examination and testing has set its stamp of approval upon the methods and given full authority for their use in examining the relative mentality of men in the United States Army.

We are justly proud of the achievement of our Expeditionary Force in France, and no small factor in the efficiency of that force is to be found in the fact that twelve per cent of the drafted men were kept at home on account of their low intelligence, with the result that those who were sent over seas were men capable

of carrying forward the purpose of the army with a high degree of efficiency. Not only was the rank and file selected on account of superior intelligence but the officers also were selected on the basis of intelligence as determined by these tests. With this demonstration before us we can not, as intelligent citizens, long delay putting into practice the same or similar tests for determining the mentality of all school children and youth, and then providing the necessary care in some form or other which shall prevent those of low mentality from ever having the opportunity to commit crime. This clear setting forth of the facts showing that these atrocious, but all too common, crimes were committed by people of low intelligence is of the highest value, and should lead promptly to putting into operation the necessary machinery for testing out the population and determining those people who are of too low mentality to be trusted to manage their own affairs.

It is unnecessary to discuss here the methods that may be used to care for these people. Suffice to say that their care does not mean imprisonment but merely providing an environment and an oversight which will at the same time render them harmless and make them happy and contented in their sphere.

Incidentally the facts set out by Mr. Thacher in these cases involve another question, namely, that innocent persons are suffering punishment for crimes that they did not commit. Some way for righting the wrong should of course be found as soon as possible. The fact that some officials entrusted with the administration of justice may have made mistakes should not be allowed to interfere with the righting of the wrong or of introducing better and surer methods. Nor should these officials feel sensitive that their errors have shown up. Undoubtedly similar errors have occurred the world over, but they occurred through lack of knowledge which was not possessed by any one. In other words we did the best we could in view of the facts at hand. Until recently we have known almost nothing about mental defect or its relation to crime. Now that that relation is discovered it is the part of wise intelligence and broad-mindedness to utilize that knowledge to the fullest extent. A way should be found of righting such wrongs as it is still possible to correct and of inaugurating methods looking toward the prevention of such errors in the future.

The writer of this introduction has no means of verifying Mr.

Thacher's statements but apparently he has made his case and it is certainly true from the standpoint of psychology; and in view of what is known today of feeble-mindedness his arguments are sound and his conclusions must be accepted. His methods of formulating a working hypothesis for determining the true criminal on the basis of the character of the crime is entirely sound and has been worked out with remarkable insight, and this method should be of enormous value as a contribution to criminal procedure. The facts and explanations of these crimes as given by the author are not only plausible but agree perfectly with the vast amount of data that has been collected by others in other places in connection with similar crimes. We believe that a perusal of the book will convince any unprejudiced reader that there is a well-founded hope for preventing a great deal of crime and that it is well worth working for.

HENRY H. GODDARD.

THE HUMPHREY BROTHERS

These two brothers were high-grade morons and they lived together on a poor little farm which they cultivated. They were unmarried and passed as somewhat incapable and harmless citizens, though the family physician knew them to be weak-minded. One day they went to the home of a middle-aged single woman, who lived alone near Philomath, Oregon, and they alternately made repeated sexual assaults on her and finally murdered her. They then carried her body to a pond near by to conceal it. On being arrested, they both denied the crime, but made damaging admissions. Later they confessed. They were both convicted and hanged. They exhibited a stolid demeanor on the gallows, which the newspaper correspondents described as an indication of hardened depravity.

Chapter I

THE DELINQUENT MORON

The word Moron is a recently coined addition to the English language, and is not to be found in any but the latest and most up to date dictionaries. It lacks one letter of spelling Mormon, for which it is sometimes mistaken by the careless reader. Moron is taken from the Greek word meaning a grown-up person who is a fool—the kind of person who was born a fool and for whom, therefore, there is no hope. The Moron has considerable cunning but no foresight and the delinquent moron has force enough to try to get what he wants but not sense enough to foresee consequences of forbidden acts, and so he becomes a criminal fool, if a born fool can properly be called a criminal. Solomon had something to say on the subject in the book of Proverbs, but his bitter comments expressed more scorn and disgust than anger at the wickedness of fools.

The conduct of the moron, under stress of temptation, is strikingly illustrated in the case of Giovanni Monaca, and many others.

Pretty seventeen-year-old Mary Spina was living with her father and mother on a quiet street in East Portland in 1918. Over a year before, a fellow countryman was a boarder in the family for seven months. His name was Giovanni Monaca and he was thirty-two years old and had been a day laborer of the drifting sort. He became infatuated with Mary, and wanted to marry her, but her family refused their consent and Mary would not run away with him so he promptly threatened to kill her. Mary's father had Giovanni arrested and he was held in jail one day and then ordered to leave town. In six months Giovanni returned and renewed his plea and his threat of murder as an alternative, and was again arrested and again ordered to leave town. This was in the Spring of 1918. In August Giovanni returned to Portland with an automatic revolver he had purchased in Seattle the first time he left Portland and entered the home of the Spinas at night through a window and went to Mary's room and shot her seven times as she lay in her bed. Her dead body looked as if it had been riddled by bullets from every direction. When Giovanni was arrested after running away and brought back and questioned he said, "I was crazy

that I was put in jail. I been in jail twice and been ordered out twice when I love this girl, and I get sore for this. I wanted to marry her and I made up my mind if she going to marry me it is all right. If not, I kill her."

Q. "Why did you run away?"
A. "I was scared of the police."
Q. "You knew what you had done?"
A. "Yes, I knew what I had done."
Q. "You knew it was wrong to do that?"
A. "Yes."
Q. "Don't you feel badly that you killed this girl?"
A. "Yes, but I am satisfied now that I have."

Very similar was the case of Fred Tronson. Miss Emma Ulrick was an attractive and efficient stenographer in a business office in Portland in 1914. Tronson, aged twenty-four, was elevator man in the same building and decided that he wanted to marry Miss Ulrick and gave her a trifling present of some letter paper. Miss Ulrick declined the proposal of marriage, whereupon Tronson threatened to kill her. Tronson was arrested and lectured by the police judge and released upon his promise to go away and go to work and forget his folly. He went away for a few weeks and brooded over the matter and finally bought two revolvers in Vancouver and one evening followed Miss Ulrick home and into the house where he fired all the shots in one of the revolvers at her as she tried to escape, killing her almost in the presence of her family. Then, much as Monaca did, he threw away the revolvers and ran away. Monaca got as far as Canada before he was arrested, but Tronson only succeeded in getting one hundred miles from Portland, before the police caught him. When he was brought back to Portland he said to the District Attorney, "Yes, I am sorry I had to do it; I acted like a gentleman. I had given her one present already."

He said he bought two revolvers and loaded them both, so that if one failed he would still have the means of killing Emma Ulrick. Tronson said he felt satisfied, in doing what he did, but he was afraid they would put blood hounds on his trail. At his trial his confession to the District Attorney was read in evidence and he was very obviously proud of the story as a literary production in which he had the principal part. He leaned over and asked the minister who sat by his side, "Well, what do you think of it?"

When Tronson was being sentenced to prison for life after his conviction he acted like a frightened child who was being scolded for bad conduct. On the direct question being asked him by the District Attorney, he admitted that he had no right to take Emma Ulrick's life, which he could not restore to her, but said that he did not think of that at the time he killed her.

At Tronson's trial for the murder of Emma Ulrick I secured the consent of District Attorney Walter H. Evans and his first assistant, John A. Collier, to the introduction of expert testimony as to Fred Tronson's mental weakness. Mr. Dan Powers, Tronson's lawyer, placed Miss Grace Lyman, a psychologist from Leland Stanford University, on the stand, and she testified that the mental test showed that Tronson had a mental age of about nine years.

This is the first time in Oregon criminal practice that the testimony of a psychologist on the subject of feeble-mindedness has been admitted in a murder trial.

A full account of this case with Tronson's confession may be found in Dr. Henry H. Goddard's, "The Criminal Imbecile."

The same year in New York state, Jean Gianini assassinated an interesting young woman in the most brutal fashion and dragged her body into the bushes by the side of the lonely road where he had persuaded her to walk with him.

Expert testimony of psychologists was admitted at the trial to show the murderer's mental capacity and with the following result:

"We find the defendant in this case not guilty as charged; we acquit the defendant on the ground of criminal imbecility."

This was the verdict of the jury in Herkimer County, New York, on March 28, 1914, in the case of Jean Gianini who killed the young woman who had the misfortune to be his school teacher.

Jean Gianini was a high grade defective who could not make any progress in his studies, and he said that his teacher humiliated him in school, which shows that he had brains enough to realize that he was a failure in his classes. At the same time he was apparently attracted by his teacher because he had frequently asked her to go with him to visit his family. She finally consented to go with him and somewhere on the road he attacked her, whether with a sexual motive, or because of his "humiliation" in school, will never be proven. He admitted

striking her with a wrench three times and then hitting her with a knife several times (24 was the number, one blow finally reaching the jugular vein) "to be sure to finish her." Then Jean dragged her body aside so that it would not be readily discovered and went home. The next day after breakfast at the place where he was employed, he went to work for a short time, but soon quit work and went to the village where he was picked up at the railroad depot. He went back without any objection and on being accused of the murder he readily confessed.

He had started to leave home the night before but as he missed the train he went back and went to bed. He said he was as happy as usual, adding, "I did not think anything about it as I thought I had revenge."

This characteristic murder by a feeble-minded man is described in detail together with the evidence at the trial in Henry H. Goddard's "Criminal Imbecile." The murderer was held to be irresponsible in view of his weak mentality as pointed out by experts on the witness stand, but provision was made for his permanent detention in an institution instead of sending him to the electric chair.

In both of these last two unprovoked murders of intelligent young women, who had every possibility of useful and honorable careers, the immediate cause of their deaths is a matter deserving consideration.

There was so much of the "ego" in the cosmos of both of their murderers and so little ability to foresee consequences that they were without any sense of their personal responsibility to others.

Dr. Goddard points out that these young men understood perfectly the character of their acts as shown by their preparations and the actual killing, but he insists that these feeble-minds did not realize the quality of their acts or the inevitable consequences to anyone (themselves included) of taking human life. That looking ahead and foreseeing results calls for a considerable ability in abstract reasoning which the feeble-minds do not possess. They never get beyond the childish stage of wanting things and threatening to kill if denied.

There probably never lived an aggressive small boy who did not fly into a rage and threaten to kill when he was completely obstructed in his desires. His moral sense, which must be sustained by his ability to reason, has not been developed. He must

be controlled by authority, and in practically all cases he is controlled by the kind, but decisive, will of his parents until his own reason supports and sustains the moral teaching he has received.

About 1916 two small boys under twelve years of age, who had been as completely neglected as two little animals, killed a man in Idaho. They knew the nature of the deed and carried it out by shooting a rifle, but they were young children and could not realize the consequences of taking human life. Their horizon was bounded by the impelling force of their impulses and their lack of training and ability to reason about the sanctity of life. These children were not convicted of murder, for the irresponsibility of the child was recognized.

In the grown up feeble-minds this same lack of ability to reason about the consequences of criminal conduct is the most noticeable characteristic. Their reasoning powers are too weak for them ever to learn thoroughly and as a guide to conduct the value of ethical teaching. They always remain creatures of impulse except in so far as fear controls them. At the same time their powers of perception are often very good and some of them have unusual mechanical ability.

In 1916 a man over sixty years of age, serving a life sentence for murder in a Michigan prison, was pardoned and drifted to the Pacific Coast. He had been in prison over 30 years. I saw him every day for months, but aside from a vacant eye, a marked pallor, probably due to long confinement, and indications of broken health there was no stigmata of mental weakness. He carried wood for the fires and one day he appeared with a sort of harness which enabled him to stagger along with a huge armful of wood. He showed the same delight in this arrangement that a small boy would manifest in overloading a wheelbarrow and wasting time in doing it. Then he showed a complete inability to reckon his wages for work done, and would become angry when it was pointed out that there was a debit as well as credit side to an account. He was obviously sincere in claiming that he was being cheated because the amount which he owed was deducted from the amount due him. His capacity for handling an abstraction of the simplest sort was lacking.

On several occasions he called in a man who had befriended him to secure fair treatment. This friend proved to be an exguard from the Michigan prison where this man had been confined. He admitted that this ex-prisoner was weak-minded and said that he was very quarrelsome in prison and was often

engaged in fights with other prisoners. I asked what crime this prisoner had committed and he told me that he had a quarrel with his brother and cut his head off with an axe.

This ex-prisoner had only a child's sense of humor in spite of his sixty odd years of experience. He finally became so incensed because he thought he was being cheated that he left for California. He could reckon his wages but he rebelled bitterly at the thought of being compelled to pay anything out of his wages, for his room or board. His mental machinery could not entertain or adjust the two sides of a problem. At the same time he apparently had moderate intelligence. He had been known as a bad man, but his old prison guard knew that he was weak-minded and consequently irresponsible.

In some of these "aments" all the instincts are weak and they drift through life without committing any crimes, but unable to make a comfortable living because they are unable to plan and lack persistence and the will to be industrious. Intellectually they are very much like an unusually intelligent steer or horse. However, in many of these defectives the reproductive instinct is strong enough to keep them in constant trouble and lead them into criminal conduct. They know no law but the desire for immediate gratification. Of course there is no arbitrary line between the feeble-mind and the so-called normal person, and naturally what are known as the border-zone cases develop into the worst criminals, as we call them in popular terms.

A young man by the name of Kemp illustrates the border-zone type. He assaulted a young married woman whom he accidently met in a lonely place near Portland and tore every strip of clothing from her body. Becoming enraged at her resistance he shot her through the body and then forced her head into a pool of muddy water. But at the moment her capacity for resistance ceased he became remorseful and wrapped her in some sacking and poured some whiskey between her lips and placed her unconscious body in a poor shelter, and then wrote a letter to the sheriff telling him where to go to find this young woman, and took the trouble to go to the central postoffice and put a special delivery stamp on the letter. The sheriff acted promptly and the young woman, after hovering between life and death for days, finally made a complete recovery.

The penalty for assault with intent to commit rape is from one to ten years' imprisonment in Oregon; but Kemp was carried

away by fear, and, after wandering in the woods for a few days eluding pursuit, finally shot and killed himself with the revolver he had used to shoot the young woman who had resisted his criminal attempt. Kemp showed more capacity for reflection and abstract reasoning than did either Jean Gianini or Tronson, but he also showed the same complete yielding to impulse that they did.

To people, generally, crime is a horrid manifestation of wickedness which calls for sharp and swift vengeance on the offender, both to injure him because he has injured others, and to frighten possible or prospective criminals from doing similar deeds. That is popular criminology and penology reduced to their lowest and simplest terms. From this naturally follows the attempt by the law-making power to measure the amount of punishment or vengeance by the nature of the offense. *

There is another possible method which would involve considering the intelligence, the character and training of the offender in order to determine whether or not he is a fit person (or may become a fit person) to return to society and propagate his kind.

The philosophy of the latter method is very simple and goes back to first principles. Most animals are gregarious and have certain social impulses which benefit the flock or herd, but man is the only animal who has a conscious moral sense. Man has a hand with a thumb opposing the fingers so that he can grip and handle objects, and he has the faculty of communicating with his fellows by spoken (and written) language, and the two faculties have slowly and painfully led him to material achievement and to account to himself (and to others) for his acts. That is to say he has a moral sense or very practical reasons for knowing that certain acts are right and certain other acts are wrong because of their ultimate consequences. He might be told from infancy to old age that certain things are wrong but unless he could reason it out and know it as a personal, never-to-be-forgotten fact he would not be a moral creature, or what we call a responsible creature.

This is the eternal burden of educating the young. Even where they inherit good bodies and minds and come of families

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* NOTE: Article I, Section 16, Constitution of Oregon—"Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense."

who possess good morals and good habits, it is a commonplace that boys and girls violate laws and morality through ignorance, lack of experience and lack of thought. The tendency has grown very rapidly in recent years to treat minors, not as criminals, but as young and immature persons whose minds have not been developed to the point of foreseeing the ultimate consequences of their acts.

However there are certain persons who, through bad inheritance or disease, have weak and defective minds and who never can learn to reason about their acts so as to foresee the ultimate consequences. That is to say they are not moral, responsible creatures. Experience teaches them no lessons for they can't deal much in abstractions, and while they may have a parrot-like knowledge of right and wrong, it does not control their bad or hurtful tendencies. They can perceive the difference between right and wrong, but they have no foundation for moral character because their minds are defective and weak. In other words they are for all practical purposes as much the creatures of their impulses as the coyote of the plains or the grizzly bear in the mountains. Their morality is much like the ignorant savage's ability to count. An abstract number means nothing definite to a savage, and the abstraction cannot be remembered and applied to a new situation. The defective moral sense of the weak-minded is like that lack of mathematical capacity and consequently cannot be applied to new situations and problems as they arise in the defective's life.

That is equivalent to saying that the defective person who has impulses or tendencies of any unusual strength is practically certain to be guilty of criminal acts. He knows the meaning of no law and is capable of knowing none. His outlook is the criminal outlook but his responsibility is nil.

A good illustration of the "aments" criminal outlook appears in Aaron, a young man of 25 years who began his delinquent record in the juvenile court at the age of 14 or less. Since then he has gone through the mills of justice about ten times and at present is in the penitentiary. He has been convicted of theft and burglary and is now serving a sentence for receiving stolen goods. He also has been guilty of sex offenses against little girls. Physically he is an able-bodied man and does not look imbecile, but the psychological test gives him the rating of a 7-year-old child.

Aaron never could get beyond the first grade in school and naturally can do nothing with words or numbers. From the police point of view he is a bad young man and could be led into any kind of crime which his intelligence or cunning is equal to. For ten years punishment has been measured out to him according to the offenses he has committed, though in truth he is not a moral creature.

Naturally, among women, weak mentality leads to their exploitation as prostitutes—where they are not protected by circumstances. The lack of ability to foresee ultimate consequences, even in a small degree, is obviously the chief explanation for the army of women in the underworld. The extreme youth of many of these novitiates in an unhappy life explains in great part the lack of intellectual development or capacity to reason among those who are not actually feeble-minded.

There is no sharp line, of course, between the feeble-minded and the so-called "normal" person, and the greater the intelligence short of a full capacity to deal in abstractions and foresee consequences, the greater the danger of irresonsible and criminal conduct. Special defects among intelligent persons are often causes of crime.

There are a great many men and women of the underworld who escape the technical stigma of being feeble-minded who are altogether creatures of impulse and apparently entirely lacking in self-control. Where their impulses or instincts are very strong they are especially dangerous.

The high-grade feeble-minded, who under favorable circumstances can earn a living, are very apt to be considered as responsible beings and treated as such. For thousands of years they have been regarded as fools whose folly was wilful. Solomon in his Proverbs has much to say about them. He refers to fools constantly and in the 26th chapter of the Book of Proverbs he sums up his scathing indictment. There are two significant things in Solomon's account of fools. He points out that a fool is a hopeless creature—"As a dog returneth to his vomit; so a fool returneth to his folly." He also differentiates between fools and criminals—"The great God, that formed all things, both rewardeth the fool, and rewardeth transgressors."

It would really seem as if the world had suffered enough from feeble-minded delinquents to recognize their characteristic traits. There is one particular kind of weak-minded creature who has considerable facility in the use of language and who

aspires to be a politician and demands a politician's reward of "office," and failing in that, takes a feeble-minded man's revenge on the highest official he can reach. President Garfield was assassinated by Guiteau, who wanted to be appointed an ambassador. It was recognized at the time of Guiteau's trial for murder that he was not fully responsible, but there was no proof of insanity (vague as that term is). On the other hand everything in Guiteau's life, from his childish schemes for making a living, his lack of honesty, his complete lack of sense in trying to adjust means to ends, his unrestrained vanity in claiming alliance politically with the Stalwarts who were led by Roscoe Conklin, his request for an ambassadorship, his excuse of compulsion or necessity in killing President Garfield (like Tronson who killed the girl who would not marry him—"Yes, I am sorry I had to do it,") his conduct at his trial for murder, and finally when on the gallows he read his doggerel verse, "I am going to my Goddy in the sky," all indicate with a weight of cumulative evidence not to be denied that Guiteau was a high-grade feeble-mind, or what Solomon called a fool.

The assassin of Carter Harrison, Mayor of Chicago, was another high-grade feeble-mind like Guiteau, who felt the imperious necessity of killing the Mayor because the Mayor had not given him what he wanted. He felt perfectly justified in doing what he did. His childish mind in a man's world could come to no other conclusion. "I am sorry I had to do it."

This is the nature of the creatures whose crimes are described in the following chapters. They know in feeble-minded fashion the difference between right and wrong but the realization does not "trickle" in until after the event. Their impulses are the only things which control them.

There is, of course, the further question of psychoses and aberrations among the weak-minded as predisposing causes of criminal conduct. There is no question but what they exist, and in fact very careful observers consider that the mental and nervous weaklings are very apt to be afflicted with degenerative affections which occasionally lead the subject to commit some of the most terrible crimes known to the human race, such as sadistic murder, as well as lesser crimes. This is perfectly logical and observation confirms the conclusion.

Chapter II.

PSYCHOLOGY OF CONFESSIONS OF CRIME

To the more or less morbid creature whom we designate as criminal the desire for gratification of human impulses and for some social recognition is very strong.

I have listened to the stories of offenders who have committed various crimes ranging from forgery and obtaining money by false pretenses and burglary to perverted sexual offenses and murder, and the burden of the story is almost invariably the same. It seems to be one of the absolute needs of human beings to talk about personal experiences and attempts at achievement. A man who was indicted for an assault on a child had a long story about his unsuccessful career and broken family and his fondness for children. He denied the offense and condemned it in unmeasured terms but went on to explain the circumstances which he said had deceived the witnesses. His explanations and admissions proved his guilt beyond a reasonable doubt, but not content with indirectly damning himself he then began to ask questions about the length of sentence imposed for this particular crime. He did not want to admit that he was a criminal but his point of view was his experience and he could not let it alone. If his experience had not been a guilty one he would have had very little to say. He would have asserted his innocence and been contemptuous perhaps about the charges, but that would have closed the tale.

The disposition of men who are guilty of offenses to talk about them and make partial admissions which lead up to the criminal act but deny the culminating or actual performance is very common. A pervert who had made a public nuisance of himself prefaced his statement by saying that he knew that men sometimes did this thing but that he was a virtuous citizen, and that he was getting old, and that he had too great a respect for his fellows to do anything of the sort. He repeated several times that he knew this thing was done but that he did not do it. He did not know that he was confessing his guilt, but the court knew and sent him to prison.

It has been said that a liar needs a long memory, but the fact is that his memory is his undoing as soon as he attempts to weave a different story than the true one. He is so fearful of not explaining all the damning facts that he remembers that he overdoes it. Self-deception and self-pity help him to distort his story and also to forget some important details.

There are two classes of criminals who make truthful confessions when the pressure of circumstances becomes so cruel as to make it seem possible that a clearing up of the mystery will be of advantage, or when mental distress or remorse leads the offender to unburden his heart. Of course the motive is selfish in either case. In saying that the confession is truthful I do not mean that it is apt to be literally true, but that it is true in its main features. There may be a vital fact omitted but enough will be told so that the balance can be worked out, remembering that the criminal is seeking some means of justifying himself. Take the confession of the man in the Green Trunk murder mystery in Portland in 1917. A green trunk had been found floating in the Willamette river and upon investigation it was found to contain the murdered body of a middle aged man. It was known that this man had come to Portland a few weeks before with a male companion, but this other man had disappeared. The horse and wagon was found which hauled the trunk from the lodging house to the river but there the clues ended.

The circumstances indicated, however, that these men were homosexual lovers and a search was instituted in the underworld of the Pacific Coast for the missing man. It was a year before he was found and brought back to Portland for trial. He admitted that he belonged to the tragically unfortunate class who are born into the world with the homosexual temperament and he explained his partnership with the murdered man. He possessed, as all persons of that type do, an inferior nervous system, which accounts for what is described as sexual inversion. He did not find it out until he was twenty years old and then he knew why he was "queer."

The normal ways of living and loving were closed to him and so he drifted into perverted ways and finally while under the influence of an unusual amount of liquor he became a homicide in a moment of exasperation. He admitted that he drove that horse and wagon around the city for two or three hours before he put the trunk in the river. He did not tell the whole story to one person but made partial confessions to different ones. His opinion of his situation had a good deal of interest. His own verdict was, "I am the victim of circumstances." In the penitentiary he is a model prisoner and has nothing to distinguish him except the fact that he is the man of the Green Trunk Murder Mystery.

There is another type of the mentally and nervously abnormal who are possessed or obsessed with an ugly and contrary disposition which impels them to defy all conventions and to despise their fellows. Breaking the law is in the nature of a diversion to these individuals which gives satisfaction to a brain and nervous system at war with itself. When the crisis comes such a man rather enjoys telling how cleverly he defied the law though he admits its unwisdom so far as it touched his personal fortunes. These men have good intentions but the world would have to be made over to harmonize with their pathologically crooked habits of thought. These delinquents are recidivists invariably and their performances would read like the story of a huge practical joke perpetrated with the design of making themselves the butt, if it were not for the tragic side.

Another kind of criminal who almost invariably confesses belongs to what is called the moron type. An adult in years and with the physical needs of a man the moron reasons like a child and has little power of self-control. He is extremely irritable and has entirely uncontrolled fits of rage and is often outrageously profane and lacking in the sense of modesty. At the same time he has the child's desire for approbation and enjoys the emotional exaltation of being the center of interest. He is very cunning and enjoys telling of his "smart" actions, but he has no foresight.

This kind of a criminal will almost always confess if treated with tact and he will give details of a personal nature which no member of the class previously mentioned would allude to.

These personal revelations are so naive and childlike that they stamp the truth upon the confession or its principal features. At the same time these criminals may have an excessive vanity, and if they do they are certain to lie about details of their crimes in order to make them appear as very remarkable achievements. The combination of child-like remorse for wrong done for which an innocent person may be suffering, a desire for approbation, and possibly a streak of intense vanity which has never had much to feed upon, leads the criminal of this type to make a confession which is a hodge-podge of fact and fiction.

In the chapters which follow there is an account of a murder and a confession relating to it which is of this type. Some of the details of the confession are grotesque fabrications but the central facts are undoubtedly true.

The other murder and confession which is the first of the two accounts as printed in the following chapters does not have these grotesque details but is very matter of fact and has been verified in the majority of details given. This difference in the two confessions indicates of course the difference in personality of the two feeble-minded offenders.

The account of the murder and confession in the first chapters following involves a man of nearly 40 years old. He is physically slight, weighing about 125 pounds, and with very small hands and an asymetrical head and face. All his life he has gone into ungovernable fits of rage on very slight provocation and he also nurses his anger until he has an opportunity to gratify it. After the explosion he realizes what he has done and the possible penalty but this does not deter him from doing much the same thing the next time he loses his temper. Experience is altogether wasted on him for while he does not forget, he does not learn from any experience. He has a certain shrewdness of observation and forms conclusions quickly, but anything like patient thought is outside of his realm of mind.

The most vivid impression which I shall always retain of him is that he is now at 38 years still in the mental attitude of a boy of ten whose greatest delight is to play Indian and take scalps and trot around in the woods and fish and hunt and shoot at a mark. Instead, however, of using tin knives, a tomahawk made out of a shingle and dipped in red paint and a wooden gun, this boy-man when he is not in some jail or penitentiary, carries a very business-like knife, and a small arsenal of firearms which he can use with skill. He likes nothing better than to live in the jungle with some hobo of criminal tendencies and exist by petty stealing varied by an occasional job. It is the serious business of life for him to know all the criminal slang and the ritual of jungle crooks including the significance of various marks made on fences, trees and barns and the signs of a turned up trouser leg or a hat of a particular color or one worn in a certain way. The deadly seriousness with which he will tell of the significance of a certain kind of hat and the signs by which the predatory crooks of the jungle recognize each other would be convulsing if there were not a grim reality behind this child's play which accounts for the brotherhood of criminal tramps who live in the woods and along the highways and in the suburbs of large towns, loafing and stealing and occasionally mistreating women and children.

Their career of adventure is enlivened by occasional visits to the lowest places of amusement in the cities and by evading and deceiving the police and sheriffs to whom they appear as more or less harmless hoboes. To this brotherhood belongs the man who killed William Booth at Willamina, Oregon, on October 8, 1915, and who says of Booth, "I told him I would get him and I did get him!"

There is probably no doubt but that the fact that Booth's widow and a young man who was a neighbor of the Booths in Willamina were found guilty of Booth's murder and are now in the state penitentiary where Booth's actual murderer is doing time for larceny committed after Booth's death, has worked on his mind until he imagined that the authorities knew of his guilt. His mental powers of resistance are not great and so he found it a relief to confess—this sorry boy-Indian-bad man of the jungle.

Mrs. Wehrman's murderer who is of a slightly different type is the man involved in the second tragedy of murder related in the following chapters.

John G. H. Sierks is nearly 30 years old and he also belongs to the moron class. He was born in the woods of Columbia County and never went to school in his life, but his father taught him to read and write and he is quite proud of his ability to write a letter. John never has been able to master mathematics. If his father attempted to correct his erratic use of the multiplication table John would fly into a passion and ask, "What the —— difference does it make to you? I am doing this!" John preferred children for playmates when he was 18 to 20 years old and was very jealous if not allowed to associate with them. His greatest delight was to wander through the woods with a gun and revolver, for he has a passionate fondness for firearms. He has a good sense of location, and it would be impossible for him to lose himself in the woods.

He is much attracted by the opposite sex but he is awkward in showing his fondness. The wife of a neighbor tells of his meeting her in a wood road and after passing her of his hurrying back through the timber in order to meet and pass her again and of repeating this attention until she was exceedingly frightened. Of course he has been made the victim of all sorts of stupid practical jokes concerning his interest in women, which has made it more difficult for him to approach women and girls in an easy way. His father tells of John's attempts to

kill him and other members of the family. On one occasion his father was at work on a scaffold and John said to his sister and the folks there that he was going to shoot the old man and every damned thing off of the scaffold to see them fall.

On another occasion he gave his sister some poisoned wheat to give to his little brother and when she did not do it he told his father to look out for Lena as she had some poisoned wheat and was going to take it to kill herself. The sister, however, had buried the wheat and did not say anything about it until questioned because John had a habit of making life miserable for her when she told of his bad conduct.

At another time John placed a charge of dynamite in a stump near the house with the plan of setting it off when his father was near, but Lena set it off when no one was about, which led John to tell her, "You are always sticking your nose in my business. I'll put a stop to that," etc. One of the neighbors said that John told him that he set giant powder under a stump and if it had not been for the girl not keeping her damned mouth shut, he would have gotten the old man all right.

His father said John often asked him to go hunting with him, but that he would never go because he was afraid John would shoot him in the back.

John's father said that a neighbor had three or four young girls and that his children used to go to play with them but that the neighbors objected to John's coming. John became very angry and said that his brother and sister should not go either. They did go, however, and while there playing in the chicken house three shots were fired and one bullet went through the chicken house while the children were there. It was not long until John came along with a rifle and said to the children, "I want you damned kids to come home."

This gives an idea of John's conduct when he was crossed, and of course when he had been drinking (he was now 21) he was more irresponsible than ever.

John is very vain and broods over schemes to make it appear that he is smart and clever.

His confession of how he killed Mrs. Wehrman in Columbia County because she would not respond to his request shows this tendency in describing how he made the trip to Scappoose at night and got the revolver out of Riley and Hassen's cabin and committed the murder and got back to Washington County

by the next morning. That would have been a difficult feat, but it has since come to light through the statement of John's sister that he was at home for nearly two days before they discovered the body of Mrs. Wehrman and her child. The story of all the circumstances in later chapters shows John's cunning and how he came to repudiate the confession after he had made it. John's responsibility is not very great but this brief account shows his capacity for crime and the temptations which he could not resist. At the same time he knows the difference between right and wrong and has been constantly unhappy about what he did and cannot refrain from talking about it. He cannot learn from experience and will always be a menace to society unless he is confined.

Chapter III

THE MURDER OF WILLIAM BOOTH AND THE CONVICTION OF WILLIAM BRANSON AND MRS. BOOTH

In the pleasant village of Willamina on the banks of the Willamina river just at the gateway of the crossing of the Coast mountains to the Pacific ocean, the Booth family was living in October of 1915. The husband and father was William Booth, a laborer and mechanic in Willamina. His wife, Anna Booth, was 32 years old and the mother of two children, Lora, aged twelve years, and Ermel, a boy several years younger. Mrs. Booth's father and mother lived about two miles or more to the west and north of Willamina, and Mrs. Booth was in the habit of walking out frequently to see her mother who was not in good health.

On October 8th, immediately after the noonday meal, Mrs. Booth left her home to walk to her mother's. Within half an hour later, Mr. Booth left the home and while he started in a different direction at first he took the same road outside of the village that his wife had to follow to go to her mother's. It was rumored in Willamina that Mr. Booth was jealous, at least this was the story given in evidence later, for on this day William Booth was shot and killed by someone among the trees and bushes on the bank of the river a mile and a half from Willamina. This spot was near the road which Mrs. Booth had to follow to go to her mother's and which Mr. Booth also followed. Mr. Booth's murdered body was accidentally discovered about two hours after the killing.

During the afternoon of October 8, 1915, G. D. Carter, who lived a few miles west of Willamina, Yamhill County, Oregon, was on his way home from the village when he discovered the dead body of William Booth lying by the edge of Willamina river. Booth had been killed by a bullet from a .38 caliber revolver.

The body lay on its back by the edge of the stream, the feet upstream, and one hand in the water. Apparently Mr. Booth had just got over the fence which came down to the stream at right angles, for his body was above or on the upstream side with his head near the fence post. He had been seen by Mrs. Yates, a neighbor, at half-past one o'clock, going towards the bushes and trees on the river bank on the lower

WILLIAM RIGGIN, an inmate of the Oregon penitentiary, who confessed to the murder of William Booth at Willamina, Oregon, on October 8, 1915, and whose story is corroborated in many details---Chapters 3-5. Riggin is a high-grade moron.

side of the fence just before the shot was fired. Mrs. Yates, however, did not attach any particular significance to the sound of the shot which she heard very soon after Mr. Booth disappeared among the bushes and trees, and it was two hours later or 3:30 P. M. before the body was accidentally discovered by Carter.

There was no direct evidence whatever as to who did the shooting, though the sheriff's deputy and the coroner and neighbors searched the narrow strip of woods along the river bank until dark, and also again the next morning. After the conclusion of the coroner's inquest the next day William Branson, a young man of 23 years and a neighbor of Booth's, was arrested for the murder. Mrs. Anna Booth, aged 32 years, the widow of William Booth, was also arrested. It was the assumption in the neighborhood that young Branson was improperly intimate with Mrs. Booth, and that Mr. Booth had followed Mrs. Booth, who was on her way to visit her mother, and that Mrs. Booth and young Branson were surprised by the injured husband, whereupon Branson promptly shot and killed Mr. Booth. This theory was adopted by the district attorney at William Branson's trial for murder, but the only evidence offered the jury of improper intimacy between Mrs. Booth and her young neighbor was that Branson had been seen on numerous occasions some months before talking to Mrs. Booth as she stood on the front porch of her house in Willamina while he (Branson) was on the sidewalk outside of the yard.

Judge H. H. Belt, who was the trial judge, said in his charge to the jury, "It is claimed in this case on the part of the prosecution for the purpose of establishing a motive on the part of the defendants for the killing of William Booth that illicit or improper relations existed between the said defendants, William Branson and Anna Booth.

"You are instructed as a matter of law, that there is no evidence in this case establishing adulterous relations existing between the defendant Branson and Anna Booth."

It was admitted by the defendant Branson that he had borrowed a .38 caliber revolver from his uncle Milton Carter to take on a fishing trip in August of 1915. Mr. Carter says this revolver was never returned to him, and that he did not ask for its return until the day of the preliminary hearing, though he admitted that Branson told him in hop-picking time to go

to his house and get the revolver if he wanted it. Branson says that the revolver had disappeared and it has never been found. Some small articles of jewelry disappeared from the Branson home at the same time.

There is no doubt but that Mrs. Booth was somewhere in the neighborhood when her husband was killed. The shot was heard at about 1:30 P. M.

As to Branson, various witnesses testified to seeing him at the brick plant (which is three-eighths of a mile from the place of the murder) going towards the locality on a bicycle at about one o'clock on the day the murder was committed. Other witnesses testified to seeing Branson in Willamina at the time the murder was committed. Branson wore a red sweater on the day of the murder and was a noticeable figure in consequence. There was a discrepancy in the time as to when the different persons involved were seen at the brick plant and bridge according to the testimony at the preliminary hearing and at the trial. There was no direct testimony as to the presence of anyone concerned at or near the place of the murder except Booth, who was seen in a nearby garden just before the shot was heard. Mrs. Booth was seen within half an hour later near the place. That is to say, all the evidence was circumstantial. At the first trial the jury disagreed. Branson and Mrs. Booth were convicted at the second trial but the verdict was reversed by the supreme court. At the third trial Branson was convicted of murder and sentenced to the penitentiary for life. Mrs. Booth was not tried with Branson at this time, but upon advice of her counsel and with the understanding that she would be paroled from the penitentiary at the end of one year, she pleaded guilty to manslaughter and was sentenced to from one to fifteen years. Mrs. Booth has two children to whom she is devoted and the prospect of being able to go back to them at the end of a year decided her to plead guilty, as a conviction with a life sentence seemed certain if she insisted on denying her guilt.

CIRCUMSTANTIAL EVIDENCE

This case illustrates the weight of circumstantial evidence where the suspicions of a community have been aroused, and how a jury near the time of a murder may disagree as to the weight of the circumstances and how later public feeling crystalizes into a conviction of guilt.

One of the best prosecuting attorneys I know, who had no

interest in the case, said to me that in view of the evidence he did not see what the jury convicted Branson on. Of course somebody killed Booth and there were several witnesses who claimed they saw Branson and Mrs. Booth going in the direction of the place separately (not together) before the time of the killing. On the strength of that testimony a boy of 23 was sent to prison for life and the widow of the murdered man would have received the same sentence, if she had not tried to get back to her children in a year by pleading guilty to manslaughter.

However, here is another piece of circumstantial evidence quite significant which was brought out at Branson's trial for murder:

It will be remembered that Branson, according to all witnesses, wore a red sweater on the day of the murder.

At William Branson's trial Harold Lewis and Clarence Carter testified that on the day of the murder they were at work with their teams in a field about half a mile or more down the Willamina creek from the place of the murder, and that at about half past one they heard a shot and that shortly afterwards they "saw a man walking pretty fast down the creek in the brush right in the edge of the creek." They stopped their horses to watch this man who was some 250 yards distant. After they stopped their horses this man ducked down in the hollow and the witnesses could only see the upper part of his body.

The district attorney asked, "How was he dressed?"

Answer, "He had on either a black or dark blue jersey sweater and a black hat."

This man was seen by reputable witnesses and he ducked out of sight when they stopped their teams to watch him, and this occurred shortly after the shot at 1:30 which undoubtedly killed William Booth. No one but Branson was under suspicion at this trial and it was admitted that he wore a red sweater on the day of the murder. Several witnesses claimed they saw him at the bridge a quarter of a mile from the place of the shooting and several others claimed they saw him in Willamina near the time the shooting occurred.

The story of the man seen hurrying down the creek by Lewis and Carter (which was told at Branson's trial) has a particular interest in view of the confession of William Riggin in May of 1917 that it was he who killed William Booth on October 8, 1915.

The circumstances of William Riggin's confession indicate that he was suffering from remorse for his crime and also because Booth's widow and young Branson were paying the penalty for this murder.

In making this confession to his father, G. L. Riggin, whom he had requested to be present, and to Sheriff Applegate and Deputy Sheriff McQuillan at Hillsboro, William Riggin began by holding up two fingers and saying, "two are suffering for something they haven't done," and went on and gave the details of his killing William Booth at Willamina.

In explaining his motive for killing Booth, Riggin said that Booth "had it in for him" and had publicly called him a "con" and had warned him to keep away from his (Booth's) wife. Riggin is vindictive and uncontrolled in his passions and has homicidal tendencies.

Riggin described in his confession the place where he shot Booth and said that afterwards he walked down through the brush to where he left his horse which he had hired in McMinnville. "At the time the shooting took place I wore a blue shirt, corduroy pants and high-top corked shoes." In a latter statement to me he volunteered the information that he wore a black hat.

There is also some significant circumstantial evidence about Riggin's shoes. At the third trial it came out incidentally that marks of hob-nailed shoes were found in the soft soil by Booth's dead body. On the day of the murder Branson was wearing button shoes with smooth soles, while the shoes that Riggin said he wore had projecting nails.

Riggin's confession, made many months after Branson's trial, is thus clearly confirmed by testimony given at Branson's trial for the murder of Booth in these particulars which obviously at the time had no possible bearing on Branson's guilt. Harold Lewis and Clarence Carter testified that they "saw a man walking pretty fast down the creek in the brush right in the edge of the creek," shortly after they heard the shot at 1:30 P. M. When they stopped their teams to watch him he ducked down and soon disappeared. They said this man "had on either a black or dark blue jersey sweater and a black hat."

Branson wore a red sweater and was riding a bicycle on the public highway. Branson also wore button shoes with smooth soles, while Riggin says he wore "corked shoes" and the testimony at the third trial of Branson showed that someone with hob-nailed shoes had stood near Booth's body.

Riggin said in his confession that he shot William Booth. Then he went on to say that he went to Willamina on October 7th, 1915, on a horse which he hired at a stable in McMinnville. He stayed over night in Willamina and on the 8th he walked up the river and practiced shooting in the timber for a couple of hours. Then he came down the road and saw Billy Branson and Mrs. Booth talking together but he did not know if they saw him. Riggin said he had talked with a man in Willamina who spoke of Branson going with Mrs. Booth and of William Booth "trailing them." (One of the state's witnesses testified that he talked to William Branson about Booth being jealous and that Branson was defiant and threatening. Branson denied this on the stand, however.) Soon after seeing Branson and Mrs. Booth talking, Riggin saw Mr. Booth coming across a field and he shot at him but missed. He ducked down out of sight and when Booth came on again he waited until he was about thirty yards away and then shot him with his revolver, a thirty-eight Smith and Wesson. "After I shot he partly turned around and fell kind of on his left side."

Apparently after assuring himself that Mr. Booth was dead, Riggin said that he "lit out to the left and went down through the brush." He went to a vacant shed near an old sawmill on the edge of Willamina where he had put his horse. "It was a spotted pony with a roached mane." He rode to McMinnville by way of Walker Flat and turned the horse loose in the stable. There was no one in the stable at the time.

Then Riggin says he walked back to Walker Flat and stayed there three days with a man who was making boards and posts. After this, "I went on over to Tillamook and ditched the revolver and belt at Pinky Stillwell's place. I put the revolver inside the picket fence. At the time the shooting took place I wore a blue shirt, corduroy pants and high-topped corked shoes."

William Riggin is about 38 years old and has been a "bad man" for these 20 years. He has a vindictive, revengeful nature and suffers from uncontrolled fits of rage. He began his career of crime as a youth by stealing a horse and saddle. For this he was sent to the reform school at Salem. At a later period he went to the penitentiary for larceny, and served various sentences in county jails, according to his own account. Within two weeks after the murder of Booth Riggin was arrested for stealing

* NOTE: William Riggin's confession is given in full in Appendix A.

a gun, was convicted and sentenced to the penitentiary where he is now. Riggin's reputation as a thief was such that the sheriff of Washington County asked the Governor for permission to take him to Hillsboro to clear up some robberies. Riggin was very much disturbed by being taken to the Hillsboro jail from the penitentiary and he finally blurted out to the sheriff: "I know what you want me for; you want me for the Booth murder."

Riggin's vindictive, uncontrolled rage, which led him to lie in wait for Booth and kill him, had been satisfied and remorse had followed and he told the sheriff if he would send for his (Riggin's) father he would tell the whole story, which he did upon his father's arrival at the Hillsboro jail.

For the sake of brevity I will give the facts corroborating his confession as I go along. Riggin said he hired a horse in McMinnville to ride to Willamina at the time he killed Booth. Here follows sworn statement of A. R. White, who kept a livery stable in McMinnville:

"I, A. R. White, being sworn depose and say that I keep a livery and feed stable in McMinnville and have been in that business for the past five or six years. I remember renting a spotted pony with a roached mane to Bill Riggin about the time that William Booth was killed in Willamina in 1915. I think that Bill said he wanted to ride the pony to Willamina but I cannot speak with absolute certainty. I remember that I told Bill Riggin that I had a bunch grass pony who was mean to ride. Bill said that did not matter. I remember that Bill had the pony about three days and that I found the pony in the stable one morning and did not see Bill Riggin again at all after he hired the pony. I also remember very distinctly that Bill never paid for the use of the pony at the time mentioned in October, 1915."

(Signed) A. R. WHITE.

In regard to Riggin being seen in Willamina, Mrs. Lottie Smith, half-sister of Riggin's, says that she knows that Riggin was in Willamina at the time of the murder, though she does not remember seeing him that day. The brother and sister talked it over in my presence and Riggin told his sister of seeing her on a load of ties coming into Willamina. She admitted making such a trip and described the pony Riggin rode but said she did not remember the exact day, but that it was about the time of the killing of Booth. This Mrs. Lottie Smith was living a few miles from Willamina at the time of the murder.

At the trial of William Branson Mrs. Yates testified to seeing Booth in her garden just before the shooting and said that he went towards the road and jumped over the fence and turned to the east towards the creek and went right into the brush. About a minute after Booth went into the brush she heard a shot. Some two hours later Booth's body was discovered at this point on the water's edge.

In a supplementary statement made by Riggin to District Attorney Conners on July 25, 1917, Riggin said, in answer to questions that Booth was in the garden patch (Yates'), that he "went out and came around"; that he "went to the edge of the road and then came back," and that he went to the river bank.

Riggin's statement, made in July, 1917, of Booth's movements just before he shot him thus corroborates Mrs. Yates' testimony at William Branson's trial in February, 1916.

There is another point which seems to prove conclusively that Riggin was at the scene of the murder. On July 19, 1917, Warden Murphy, at Governor Withycombe's direction, took Riggin to Willamina with the idea that Riggin would show by his description of the killing on the spot and by his location of the place where the body was found whether or not he was telling the truth in his confession. Riggin directed the party, of which I was one, to the spot where the shooting occurred. Warden Murphy had never visited the scene of the crime and had to depend on Riggin's directions. I will quote from his report to the Governor:

"I asked him if he was positive that this was the place. He stated that he was, and I also asked him if he was positive where Booth stood and he said he was. I then asked him what he did when he shot him and he said he went down the creek where the body lay and then came back up the creek, crossing in and went along back of the rock quarry and then he made his way to Willamina where his horse was tied. I then asked him to show where the body lay and to describe how it lay. He said that it lay by the fence that ran down to the river with one hand in the water, and the head down stream. At this point I asked the guard to take Riggin away that I might talk freely with the parties as I did not know whether he had stated the location correctly or not. After Riggin was out of hearing, I inquired of the parties, especially Mr. Sherwin, who was as I said before a member of the coroner's jury, I believe being the foreman, and who had viewed the body in an official capacity and he said Riggin had stated the condition correctly. At this point Mr. Conner stated that

Riggin had erred in saying that the body was on the down stream side. In order to be exactly fair about this very important point I requested the party to step back from the scene 25 or 30 paces and had Riggin brought up and asked Mr. Sherwin to take Riggin to the water's edge and have him show him exactly how the body lay and where. This he did and Riggin told him that the body lay on the upper side of the fence and the head down stream, the hand in the water. I then asked Mr. Sherwin if it was the exact position in which he had viewed the body in the first instance and he said it was."

This checks up Riggin's confession to the time after the murder when a man dressed as Riggin said he was went down the creek after the shooting and was seen by two witnesses who testified at Branson's trial.

Riggin said he returned the horse to McMinnville and "I walked back to Walker Flat and stayed three days with a man who was making boards and posts. I went on over to Tillamook and ditched the revolver and belt at Pinkey Stillwell's place on the road to Tillamook."

The murder occurred on the 8th of October, 1915. Riggin says he stopped three days at Walkers Flat which would bring it to the 11th or 12th. I saw Mrs. Annie Springer, a half-sister of Riggin's, who was living in Moores Valley at that time, on the route Riggin said he took to Tillamook. Her sworn statement follows:

"I, Annie Springer, being sworn depose and say that William Riggin is my half-brother. During the month of October, 1915, I was living with my husband, Albert Springer, on the Sunnybrook farm in Moore's Valley, about eight miles west of the town of Yamhill. Will Riggin came to our place on the morning of October 12th, 1915. He seemed awful nervous about something. I asked him to come into the house, but he said he was in a hurry and, as a matter of fact, he only remained in the yard some fifteen minutes.

"I urged him to come in and he said, 'The sheriff is after me.' I asked him what he had done and he said in his short way, 'I ain't done nothing.'

"The reason that I can tell the day of October in 1915 when Bill came to our place is that we were getting ready to come to a Moose Lodge banquet in McMinnville, which was held that day, and because the day before, October 11th, is my birthday."

(Signed) MRS. ANNIE SPRINGER.

In Riggin's verbal statement to me he said that he also stopped at F. L. Smith's, a neighbor of Mrs. Annie Springer's. John Riggin, a half-brother, lived at F. L. Smith's and he has made a sworn statement saying that when he came home, the Smith family told him that Bill Riggin had stopped there and said he was going to Tillamook. Mrs. Annie Springer had also told him that Bill Riggin was at her home on October 12.

Bill Riggin's father made an investigation of Bill's movements at the time of the murder and his conclusions agree with this account. The Riggin family were unwilling to believe that Bill committed this murder but the facts which they personally knew in connection with Bill's confession finally convinced them that Bill was telling the truth. Riggin's father says that Bill ought to be permanently confined so that he won't do any more harm.

Chapter IV.

WILLIAM RIGGIN SHOWS WARDEN MURPHY WHERE HE CONCEALED THE REVOLVER

William Riggin, in his confession describing how he killed Booth, told what he did with the revolver. He said he took it with him on his trip to Tillamook a few days after the murder and hid it on Pinkey Stillwell's place, some 15 miles east of Tillamook. Inasmuch as Riggin was arrested soon after his arrival at Tillamook and has been confined in jail ever since, he has had no opportunity to "plant" the revolver since his trip to Tillamook. We know from the independent testimony of various witnesses that Riggin made this trip to Tillamook almost immediately after Booth was killed, and the revolver plainly shows that it was exposed to the weather for a long period. It's a .38 caliber revolver and Booth was killed by a .38 caliber bullet.

On May 22, 1917, Warden Murphy took Riggin to Tillamook at Governor Withycombe's direction and out to the place where Riggin said he hid the revolver. Warden Murphy says that Riggin "unhesitatingly kicked aside the leaves and released a .38 Smith and Wesson revolver with which he claimed he committed the deed." This revolver is now in the possession of the warden.

In August of 1917 I was in Tillamook and became acquainted with Malcolm Easton, whose sworn statement follows:

"I, Malcolm Easton, being sworn depose and say that I am a resident of Tillamook, Oregon, and that I have lived there for the past seven years, and that at the present time I am night clerk in the Tillamook Hotel. In the fall of 1915 I was at work in a railroad camp at Tillamook and had been in the town of Tillamook for a number of days spending my money in the saloons. Norman Myers, marshal in Tillamook, asked me one evening, when I had spent all my money and was feeling disgusted with myself, where I was going to sleep that night, and offered me a bed in the county jail, which I accepted. Myers put me in a cell with a man by the name of William Riggin who had been arrested for stealing a gun. Riggin was a good deal excited and talked to me all night especially about guns of different kinds and about criminal things he had done and of crimes he knew about. Among other things Riggin told me that he had shot at a farmer as he came across a field before he came to Tillamook

and that he had hidden a gun on Pinkey Stillwell's place, east of Tillamook, as he came across the mountains.

"Riggin did not tell me that he killed this man, and I did not think of the matter in connection with the murder of William Booth at Willamina until this summer when Riggin was brought to Tillamook by Warden Murphy. Clark Hadley told me that Riggin found the revolver on Pinkey Stillwell's place that he said he had hidden there after he used it to kill Booth. Then I remembered the story Riggin told me in the county jail of his shooting at a farmer as he crossed a field and of hiding a gun on Pinkey Stillwell's place as he came across the mountains. I asked Constable Epplett to speak to Warden Murphy about my knowledge of Riggin's story. I talked to Clark Hadley about my experience with Riggin and also to Norman Myers. Later I mentioned it to Mr. Gregory, who, I understand, was on the Oregonian staff, and asked his advice about informing the warden of the penitentiary or the Governor.

"I felt that I ought to inform the authorities of my knowledge of the matter, and, in fact, I had written a letter to Warden Murphy when I read in the Oregonian Mr. Murphy's report of how Riggin showed where Booth's body lay after he shot him.

"I spoke to Mr. Myers about it and he said it would not be necessary for me to send the letter for nobody could have any doubt of the truth of Riggin's confession after reading the report of Warden Murphy's investigation.

"I realize that the truth of my statement of what Riggin told me in the county jail at Tillamook about his shooting at a farmer as he crossed a field and of his hiding a gun on Pinkey Stillwell's place afterwards as he came across the mountains will be regarded as depending upon my reputation, and that my irregularities in the way of drinking may be held to damage my credibility, but I have lived in Tillamook for a number of years and quite a number of people know me, and I am willing to leave the question of my honesty and truthfulness with them.

"I was not intoxicated the night I spent in jail with Riggin in the fall of 1915, but I had been drinking and had spent all my money and was disgusted with myself and accepted Marshal Myers offer of a bed in the jail. I told Myers in the morning what kind of a chap he had put me in with, but as I was not anxious to be mixed up with a fellow who told stories of law breaking that Riggin told, I put the matter out of my mind until

Riggin was brought to Tillamook by Warden Murphy and found the revolver that he said he had hidden."

(Signed) MALCOLM EASTON.

Malcolm Easton is evidently sincere in his desire to tell of Bill Riggin's statement to him in October of 1915 and gave me the names of a number of citizens of Tillamook who would vouch for his honesty.

I made inquiries in Tillamook about Mr. Easton and the responses from several men of good standing in the community satisfied me that Mr. Easton is thoroughly reliable and that he has given the information concerning Riggin because he believes it is a duty which he owes the public.

WHO KILLED WILLIAM BOOTH?

The solving of a murder mystery where the only evidence consists of inferences from known or proven facts, and where there is no direct evidence, is very much like solving a Chinese puzzle consisting of many pieces of irregular shapes. When all the pieces are in their proper places, all the pieces are used and the puzzle is complete and perfect in form. Sometimes the puzzle is apparently solved without using all the pieces, but there are no superfluous parts in a puzzle; they all must be used.

So in solving the Booth murder it is absurd to say that there were superfluous facts at Branson's trial which meant nothing. And yet it is beyond dispute that the jury which convicted Branson did not consider all the facts in the case.

To be blunt the jury assumed that Branson and Mrs. Booth were together near the Yates place and that Branson and his witnesses were lying. They were so sure Branson was lying that they convicted him of murder though to do that they had to assume a motive of criminal intimacy between Branson and Mrs. Booth, which the judge instructed them was not proven.

There was evidence given at the trial to show that the day after the murder a woman's hair "rat" was picked up in the brush 60 to 80 feet from where Booth was killed, and certain witnesses who were admittedly not experts, told the jury that this "rat" was similar to hair rats owned by Mrs. Booth. Mrs. Booth's sister testified that Mrs. Booth's "rats" contained human hair and that the "rat" found in the brush did not. This question was thus left very much in the air and the jury drew their conclusions from the testimony of witnesses who did not qualify as experts. The vagueness of the inference to be drawn even if

the "rat" found in the brush was actually similar to Mrs. Booth's rats is evident. It was not competent to prove that Mrs. Booth was near the scene of the murder at the time it was committed, and no attempt was made to prove that the spot where the rat was found was a rendezvous for Mrs. Booth and William Branson. About all that could be said for it was that it tended to give color to suspicion against Mrs. Booth.

The jury was willing to go counter to the courts instructions that there was no proof of adulterous relations between Mrs. Booth and William Branson, and imagine the motive because they were so certain that Branson was lying about not being with Mrs. Booth in the neighborhood of Mrs. Yates' place that day.

This compelled the members of the jury to overlook or forget as superfluous certain facts which certainly were part of the mystery of the murder.

The first of these facts was that when Booth's body was discovered there were footprints found beside the body in the soft soil in the edge of the river. These footprints were made by shoes with hob-nails. The lawyers for the defendant say that undisputed testimony was given to this fact at Branson's third trial by a witness for the prosecution. Apparently it was given incidentally, but at any rate it was not given at either of the previous trials. The reason that this is an important fact in solving the puzle as to who killed William Booth is the significant circumstance that William Branson wore button shoes with smooth soles on the day of the murder. That is to say some other man than William Branson stood beside Booth's dead body.

And yet because the jury believed that Branson lied they were willing to leave out this important evidence. They were willing to admit in effect that some other man who had hob-nailed shoes must have stopped by the spot where Booth's body lay in order to find Branson guilty of murder.

Another piece of the puzzle which the jury left out of consideration was the testimony of Harold Lewis and Clarence Carter at Branson's trial. Lewis and Carter were at work with their teams on disc plows in a field down the river from the scene of the murder on that afternoon. Lewis testified that they heard a shot at about 1:30 P. M. and that shortly after he "saw a man walking pretty fast down the creek in the brush, right in the edge of the creek." This man was 250 or 300 yards from Lewis. Lewis stopped his horses and watched him. This man then

ducked down in the hollow and Lewis could only see him from the waist up and he soon disappeared.

Question—"How was he dressed?"

Answer—"He had on either a black or dark blue jersey sweater and a black hat."

Lewis could not see his face. Clarence Carter's testimony was identical with that of Lewis.

Here was a man hurrying away from what later proved to be the scene of a murder, and who was apparently anxious to get out of sight when a couple of men stopped their teams to watch him. This man obviously could not have been Branson because Branson, according to all the witnesses wore a red sweater on the day of the murder, and the witnesses who said they saw him down the river from the spot where Booth was killed testified that he was riding a bicycle and was riding on the road without attempt at concealment.

Certainly this man hurrying down the creek in the brush immediately after the shooting was quite as important a piece of the puzzle as Branson on his wheel on the road. However the jury left him out of their considerations.

There is no question but what the jury ignored these two elements of the mystery of the murder, and guessed that Branson was intimate with Mrs. Booth and guessed that Mr. Booth caught them in the brush in a compromising situation and guessed that then Branson killed Booth.

WILLIAM RIGGIN'S CONFESSION

It is a crucial test of William Riggin's confession to see if all of the circumstances "fit in" and make a solution of the murder which is complete.

Riggin says he hired a spotted pony with a roached mane and rode to Willamina from McMinnville. Mr. White says he rented such a pony to Riggin in McMinnville at the time Booth was killed. Mrs. Lottie Smith, Riggin's sister, says she saw Riggin in Willamina and described the pony he rode.

Riggin says, in a statement to the District Attorney, that he was at Mrs. Yates' place when Booth was in her garden and he described Booth's going to the road from the garden and thence back to the brush at the bank of the river where his body was afterwards found.

At William Branson's trial Mrs. Yates described Mr. Booth's movements in her garden and his going to the road and then into the brush on the river bank where his dead body was found two

hours later. The two descriptions of Booth's actions just before he was killed agree.

Riggin told of leaving the spot thus: "I lit out to the left and went down through the brush. I walked to a vacant shed near Willamina."

Riggin has said that he wore a blue sweater, corked shoes and a black hat.

Lewis and Carter testified that this man, hurrying down through the brush, wore a black or blue sweater and a black hat.

Thus it appears that the testimony of Mrs. Yates, also the witness who said there were footprints made by hob-nailed shoes by Booth's body, and the testimony of Lewis and Carter, all agree with the facts and with William Riggin's confession describing how he killed Booth.

Curiously enough Riggin says, in his confession, that he saw Mrs. Booth and Branson talking together near Mrs. Yates' place. This seems to fit with the testimony of the prosecution that Branson followed Mrs. Booth and was but a few minutes behind her on the road when she crossed the bridge three-eighths of a mile below Mrs. Yates' place.

Booth was killed on October 8, 1915, and on July 19, 1917, Warden Murphy took Riggin to Willamina to have him point out the spot where Booth was killed and show where and how his body lay.

The foreman of the coroner's jury that viewed Booth's body where it was found and later held an inquest was present. The warden asked Riggin to show this foreman of the coroner's jury exactly where Booth's body lay and its position. Riggin did this and the foreman of the coroner's jury said that Riggin showed him the exact position in which Booth's body lay as he, the foreman, had seen it when Booth was killed.

Riggin says, after taking the pony back to McMinnville, that he went to Walker Flat and stayed with a man there three days and that he then went on to Tillamook.

Mrs. Annie Springer, Riggin's half-sister, who was very loath to believe that her brother had killed Booth, says that William Riggin came to her home in Moores Valley on October 12, 1915, but was very nervous and would not stop. On being urged to, he said, "The sheriff is after me."

The murder occurred October 8. Allowing one day for Riggin to take the pony to McMinnville and to go to Walker Flat, where he says he remained three days, it would be the 12th when he

started for Tillamook, which would take him through Moores Valley where his sister, Mrs. Springer, lived. This fits. Why Riggin should say to his sister, when urged to stop, "The sheriff is after me," unless he had some fear that he might be after him, is inconceivable.

It seems that when Riggin was crossing the summit of the Coast Range, on the Tillamook trail, that he met four young men who had been fishing in the mountain streams and that he camped with them in a deserted cabin. They said that Riggin acted so strangely and insisted on sleeping with his weapons that two of the four kept watch the first half of the night and that the other two did guard duty the second half of the night. There is no doubt that Riggin frightened them thoroughly. They were too much scared to realize that Riggin was possibly afraid of somebody following him and getting the drop on him.

Riggin, in his confession, said that he "ditched the revolver" with which he killed Booth on the Pinkey Stillwell place. On May 22, 1917, Warden Murphy, at the direction of Governor Withycombe, took Riggin to Tillamook and they went from there up the Trask River and on arriving at the spot the warden says Riggin "unhesitatingly kicked aside the leaves and released a .38 caliber Smith and Wesson revolver with which he claimed he committed the deed."

While Riggin was in jail in Tillamook he told Malcolm Easton, as previously related, about shooting at a man east of the mountains and of hiding the gun on Pinkey Stillwell's place. The finding of the revolver, Easton's testimony about Riggin's story to him soon after the murder of Booth, and Riggin's confession of the murder and of where he hid the revolver, made in the spring of 1917, thus fit together as component parts of the puzzle.

Here are two possible solutions to the mystery of who killed William Booth. The solution which points to the guilt of William Branson and Mrs. Booth ignores absolutely two important facts brought out at Branson's trial, and imagines a motive for the killing, which the judge cautioned the jury against, and bases inference on inference to reach a conclusion. Branson had always borne a good reputation and is spoken of highly by all his acquaintances and friends.

The other solution, which points to William Riggin as the murderer, accounts for all the facts testified to by the various witnesses, and Riggin's confession is corroborated in many par-

ticulars as I have just pointed out. A year and a half after his confession he still says that he killed Booth. If it is admitted that the correct solution of a criminal mystery must account for and explain all the facts brought out, and must form a complete whole, like the parts of an intricate puzzle, then the solution of the mystery of the killing of William Booth is that William Riggin killed him as he has confessed that he did.

Chapter V.

APPEAL TO THE PUBLIC FOR THE RELEASE OF WILLIAM BRANSON AND MRS. BOOTH

The various trials of William Branson and Mrs. Anna Booth for the murder of William Booth received the widest publicity. Public sentiment was very deeply aroused, chiefly because the murder was apparently unprovoked and because there was no direct testimony connecting Branson and Mrs. Booth with the crime. It was all circumstantial evidence, which is to say people could only come to a conclusion as to who committed the murder by drawing inferences from the known facts. The known facts were that on October 8 Mrs. Booth started to visit her mother and left her home a little before half past twelve P. M., going north from Willamina. A little time after Mr. Booth started west from Willamina and reached a point about one hour later on the road Mrs. Booth followed to visit her mother. He was seen near this point by several people, and at 1:30 P. M. a shot was heard, which presumably killed him. William Branson was seen, according to a number of witnesses, three-eighths of a mile from the scene of the murder going in the same direction that Mrs. Booth had gone. This was about half an hour before the shot was fired. Other witnesses testified that William Branson was in Willamina at the time the murder was committed.

The only circumstance which was established as certain was that William Booth was seen close to the point of the shooting just before the shot. Mrs. Booth was seen about half an hour later on the road some 10 rods or more from the scene of the murder, according to the testimony at the inquest. At the trial the same witness said she saw Mrs. Booth ten minutes after the shot was heard.

The jury drew the inference that Mrs. Booth and young Branson were together in the brush at the point where Booth was killed. From that inference they draw the second inference that Mrs. Booth, and young Branson, who was 23 years old (Mrs. Booth was 32) were found in a compromising situation by Mr. Booth, and from that inference they drew the third inference that upon being discovered in a compromising situation that young Branson promptly shot William Booth and killed him. If it had been established as a fact that Branson and Mrs. Booth were guilty of adulterous relations there would have been a

motive and these two inferences based upon another inference would have had a semblance of probability, but the court specifically instructed the jury that there was no evidence establishing adulterous relations between the two defendants. However, even on that supposition, which the jury accepted in opposition to the judge's charge, it is worth while to remember that while an injured husband has often killed his wife's seducer at the moment of discovery, as many a court trial will witness, and as many a verdict of acquittal on the ground of "the higher law" will confirm, there is no record that I ever saw or heard of where the seducer killed the husband on the instant of the husband discovering him in a compromising situation with his wife. It is true that the seducer has often killed the husband, with or without the aid of the wife, but not at the instant of discovery by the husband of the criminal relation.

It is proper to consider this because as part of the assumed circumstantial evidence Branson's motive for killing Booth was decided by the jury to be the fact that Booth caught Branson with Mrs. Booth in the brush. The Oregon statute says, "An inference must be founded on a fact legally proved."

To brand a man as a murderer and take away his liberty for life, especially a young man who had always borne a good reputation, on two inferences based on a third inference which "may" have been true but which was at least open to doubt, is simply to call suspicion circumstantial evidence. * The woman in the case has two young children, Lora Booth, a girl of 12 years at the time of the trial, who is being cared for by relatives, and also a little boy, Ermel, who is younger than his sister. The court did not administer the oath to Ermel, as he was too young to realize what testifying under the oath meant, but he promised to tell the truth.

Of course it should be remembered that the community was desperately exercised about this murder and Branson had been accused and he could not prove that he was innocent.

To show the hysterical spirit which prompted this conviction it is only necessary to give another case of a murder trial where the community was not much interested and where the accused persons were not convicted. In the spring of 1918 two men were

* NOTE: The question of proving a motive for a crime where there is only circumstantial evidence, and the further question of basing inferences upon inferences is taken up at length in Chapter No. 11 on circumstantial evidence.

indicted for the murder of a woman found dead on the sidewalk of Washington street, Portland. The two men and the woman were in a room on the third floor of a building on Washington street. All three were more or less drunk and they were quarreling and it is certain that either the woman fell out or jumped out or was thrown out of the window. The facts were fully established that the three were in the room and were drunk and were quarreling. The inference was very obviously plain that the woman might have fallen out of the window. Because of that possible explanation the jury could not agree, and a second jury also failed to agree, and so the case was dismissed.

In the Booth case there was no testimony to show that Branson and Mrs. Booth were together in the brush. It was inferred that they were because they had been seen going along the road, one behind the other. The inference that Branson and Mrs. Booth were in a compromising position was based on the inference that they were together in the brush, and the inference that Branson killed Booth was based on the inference that they were discovered by Mr. Booth in a compromising situation.

Booth was killed in an open field. He might have been shot from across the river or from a distance up the river. The shot might have been an accidental one or it might have been fired with the intent of killing Booth. From the circumstances there were no legitimate inferences to be drawn either in law or in logic, but evil-minded gossip suggested a motive and the jury found Branson guilty of murder notwithstanding the eminently fair charge of the judge to the jury after the evidence was in.

THE ACTUAL MURDERER

Nearly two years after the murder William Riggin confessed to killing William Booth, and the investigation which I have made shows that his confession is corroborated by the facts given in the preceding chapters, but District Attorney Conner refuses to admit his mistake in convicting Branson. Branson is in the penitentiary under a life sentence for murder and Mrs. Booth is also in the penitentiary.

Oregon has a democratic form of government, and every citizen has a personal interest in the proper administration of the criminal law and in procuring justice.

In a matter where the laws provide no remedy for such a terrible injustice as the continued imprisonment of citizens

wrongfully convicted of crime, and where the actual criminal has been discovered, nothing remains but an appeal to public opinion to secure the pardon of these innocent persons by the Governor, who has this judicial power conferred on him by the constitution.

An appeal to the public opinion must be made by responsible citizens to be successful. For that reason the complete report of the investigation of this case, including a brief of the testimony given at the trial and the sworn statements of all witnesses who have given important evidence, and also accounts by the warden of the penitentiary, and others who have been concerned in this matter, have been submitted to many citizens who are prominent in the state. They have read the complete reports and have had the advice of a thoroughly competent lawyer. Afterwards they have signed the following statement in order to get the whole matter before the people of the state of Oregon.

The committee appeal to the voters of Oregon, irrespective of party, to petition the Chief Executive of the state to pardon William Branson and Anna Booth, who were wrongfully convicted of the murder of William Booth at Willamina, Yamhill County, on October 8, 1915, and to restore them to the full rights of citizenship.

The members of this committee have each read and considered carefully the report on this case, which includes a brief of the evidence given at the trial.

In order to be fully assured of the merits of the report, the committee secured the services of a lawyer of recognized ability who has had experience as a prosecutor. This lawyer is widely known, and he was employed and paid by this committee to study carefully all the evidence given at the trial of William Branson and Anna Booth, and to examine and weigh the report on the case and to advise this committee.

His statement follows:

The undersigned was employed by Mr. George A. Thacher, representing the committee, to examine the record of the trial of William Branson, convicted of the murder of William Booth, and to report his opinion as to the guilt or innocence of Branson, based on said record.

I have examined the record, and the brief of the testimony, as prepared by Mr. Thacher, and also his report. It is my opinion,

based on the record, and aided by the investigation of Mr. Thacher, also aided by reading and considering the confession of one William Riggin, that neither William Branson nor Mrs. William Booth are guilty of the murder of William Booth. The report, as prepared by Mr. Thacher, is so complete in detail, and so well analyzes the facts that I suggest that it be made the basis of any future action by the committee in presenting the matter to the Governor. Mr. Thacher has devoted considerable time and study to this case, and, in my judgment, he is correct in his deductions.

Respectfully submitted,

FRANK S. GRANT.

Chapter VI.

THE MURDER OF MRS. DAISY WEHRMAN AND HER CHILD

There is a little hamlet, five or six miles in a westerly direction from Scappoose, Columbia County, Oregon, which is known as Schnitzerville. In 1911 there were possibly a dozen families living within a radius of a mile. There was no local postoffice and the neighbors brought the mail for each other from the postoffice at Scappoose and placed it in a box at the cross-roads. There was a logging railroad with a siding half a mile away and the neighbors used the track in walking to and from Scappoose. The country is broken and the wagon roads, which are more or less impassable in the rainy season, wind around the hills and through occasional stretches of timber.

Several families from Portland had undertaken to make homes here and had begun to build small houses and to cultivate little patches of ground. Among the number were two bachelors, Mr. Riley and Mr. Hassen; Mr. John Arthur Pender and his wife, and Mr. Frank Wehrman and his wife and little boy, Harold, four years old. Mr. Pender and his wife were living in a tent until they could build them a house and were engaged in raising ducks and chickens and geese. Messrs. Riley and Hassen had a cabin close by, but they were at work in Portland and spent only Sundays and holidays at their little place in Schnitzerville. Mr. Frank Wehrman and his wife had purchased a few acres a mile away to the southwest and had built a small house. Mr. Wehrman was a baker and worked in a bakery in Portland but came home Saturday nights to spend Sunday. Mrs. Wehrman and her little four-year-old boy, Harold, spent all their time in the new home. There were other neighbors, making a small community with more or less common interests.

This part of Columbia County is an old but rather sparsely settled section and was originally covered with heavy timber.

Among the old settlers is G. H. Sierks, who lived with his wife and three children about half a mile from the Wehrman's in an opposite direction from Schnitzerville. The oldest of the children was a young man named John G. H. Sierks, who was nearly twenty-one years old at this time. John was feeble-minded and vicious in his habits and showed such marked homicidal tendencies that all the family lived in fear of what he would attempt next. His father has told the story of his attempts to kill him

and different members of the family when he was thwarted or angry. Two years later, on his father's complaint, John was committed to the institution for the insane where the records show that he was regarded as a moral imbecile.

In the summer of 1911, John G. H. Sierks was at work on a farm in Washington County, about twenty miles from his father's home in Columbia County, going home for occasional visits. This was the setting of surrounding circumstances when on September 6, 1911, Mrs. G. H. Sierks and her daughter, Lena, walked to Scappoose and brought word to the authorities that something had happened in the little house where Mrs. Frank Wehrman and her child were living while Mr. Wehrman was at his work in Portland. Mr. Wehrman had been at home the week before but had left for Portland Sunday afternoon. This was Wednesday that Mrs. Sierks brought news of a tragedy, for she had found on Tuesday, she said, that the Wehrman house was padlocked on the outside and that a pool of blood had dripped from the inside of the house to the ground and that she and her daughter had looked through the window and saw Mrs. Wehrman's body, with her limbs bare, and hanging over the side of the bed, her feet (with shoes and rubbers on) touching the floor. This information Mrs. Sierks admitted she had kept to herself twenty-four hours before going to Scappoose to tell her husband, who was at work there as a carpenter. (The Sierks family said that John Sierks was not at home, but in 1916 Lena Sierks, John's sister, said that John was at home a couple of days before they found Mrs. Wehrman's dead body.) Mrs. Wehrman was dead, the sheriff discovered, with her four-year-old child lying dead in her arms. Both mother and child had been most brutally murdered and the cabin locked with a padlock on the outside to conceal the tragedy. The physicians testified that the woman and the child had been dead two or three days when the bodies were discovered.

There were no clues to the double murder except that three shots had been fired into each body with a thirty-eight caliber Colts revolver, which was held so close that the wounds were badly powder burned, and a hatchet had been used on Mrs. Wehrman's head.

As the result of a two-year struggle to convict Mr. Pender of this crime, he was finally found guilty of murder in the first degree and sentenced to be hung, though he did not own a Colts revolver and there was no evidence to show that he was nearer

than a mile from the Wehrman cabin when the murder was committed. The jury could not agree at the first trial, nine months after the murder, but two years after the murder Mr. Pender was convicted. In 1914 his sentence was commuted to life imprisonment.

THEORY OF PROSECUTION

There was a newspaper in its wrapper and a small unopened package containing a curtain made out of a flour sack, which had been taken to the Wehrman cabin by someone from an improvised mail box at Schnitzerville and had not been opened at the time the bodies were found. Mr. Wehrman testified at the preliminary hearing soon after the murder that the package was at the house before he left for Portland on Sunday afternoon, September 3, but no question was asked about the newspaper. It was the theory of the prosecution that Mr. Pender broke into Riley and Hassen's cabin close to his tent house after or about 6 P. M., Monday evening, September 4, and broke open the trunk and took the Colts revolver and visited Mrs. Wehrman, taking her mail from the neighborhood box and the paper from the post office at Scappoose, and made improper proposals to Mrs. Wehrman, and upon her refusal went into an insane rage and fired three shots into her body and three shots into her child's body, holding the revolver so close that the wounds were badly powder burned, and then took the hatchet and chopped the woman's head open. Her body was left partially disrobed with the bare limbs hanging over the edge of the bed. The door was then padlocked on the outside and the tragedy awaited discovery for several days.

There was no proof that Pender stole the revolver and later returned it, or that anyone stole it. Riley and Hassen said that their cabin had been broken into and the trunk opened but they were contradictory in their testimony at the different trials as to whether they discovered that the cabin had been broken into "before" or "after" September 10. They worked in Portland and visited the cabin on Sundays. They were also contradictory as to whether the revolver was loaded when placed in the trunk. In fact, there was no testimony about the revolver with any direct bearing on the crime except that the Colts revolver bullets which killed Mrs. Wehrman and her child were scratched, and it was attempted to be shown that the revolver in Riley and Hassen's trunk, which was a Colt, had gas pits in the barrel which would

scratch a bullet in a similar manner. It was also testified to by some witnesses that Pender's face was scratched though other witnesses had no recollection of this. There was foreign matter found under the finger nails of Mrs. Wehrman's hands and some brown hairs in her fingers. Pender's hair is black.

It was also testified to that Pender on a certain day had not spoken to Mrs. Wehrman from which the inference was drawn that he had previously insulted her. Finally the stories were circulated outside of court that Pender was a Sadic and had boasted of mistreating Filipino girls and then killing them when he was in the army.

On this testimony Mr. Pender was convicted two years after the murder and sentenced to be hung. To show how intelligent men may be carried away by their horror of an awful crime I will quote from the opinion of the Supreme Court of Oregon affirming the death sentence.

Referring to the hopelessly contradictory testimony as to whether Pender got the Wehrman paper in the post office on Monday, September 4, Justice Ramsey, who wrote the opinion, said it "tends to connect the defendant with the Iowa paper," etc. He then offers a theory as to what Mr. Pender did which would have been proper for the prosecuting attorney, but is inconceivable for a supreme court review and opinion. "He (Pender) may have taken the Bates package and have kept it until he obtained the Iowa paper the next day, and he may have taken the package and the paper to the Wehrman cabin on Monday night as an excuse for making a call on Mrs. Wehrman, and the murder may have been committed immediately thereafter." Justice Ramsey even went so far as to carelessly misquote testimony to sustain a preconceived opinion.

THE STOLEN REVOLVER

It was the theory of the prosecution that Pender stole a revolver from a locked trunk in Riley and Hassen's cabin on Labor Day evening after 5:30 or 6 o'clock and used it to commit this murder. Riley and Hassen were at home Sunday and on Monday until 5:30 or 6 o'clock when they left for Portland.

Justice Ramsey says of this matter: "A day or two before the murder Riley and Hassen went away and locked the cabin. This pistol was in the trunk in the cabin, and it was not loaded when they left the cabin, and the trunk was locked. Some weeks before the murder the defendant had this pistol borrowed to

shoot wild animals that bothered his chickens. He had it two or three weeks, and returned it to Mr. Riley.

"A short time before the murder the defendant borrowed the key of the cabin and had it for a short time, and a person, visiting at his tents, slept in said cabin. He returned the key to the owners of the cabin a short time before the murder."

Justice Ramsey also says: "The evidence tends to show that when Riley and Hassen locked this trunk and the cabin and went away, the pistol was in the trunk and unloaded. Nothing that had been in the trunk was missing, but the pistol was loaded when the sheriff found it. This fact tends to prove that someone had been using the pistol and had returned it loaded."

As a matter of fact Riley and Hassen did not go away a day or two before the murder and no one says that they did except Justice Ramsey. They were at home on Sunday and Monday and locked their cabin Monday night about 5:30 and went away.

As to the revolver being loaned to Pender some weeks before the murder to shoot wild animals there is no evidence to show whether it was some weeks or some months before the murder that Pender had the revolver. This is referred to on pages 332, 350, 351, 365 and 366 of the transcript. Justice Ramsey's statement is altogether gratuitous.

His statement that Pender borrowed the key to Riley and Hassen's cabin a short time before the murder is in direct opposition to the testimony. On pages 333 and 365 is the testimony. On page 365 Riley said he loaned the key to Pender once "a long time before the murder." On pages 117-118 of the transcript of the first trial Riley said the key to the cabin was loaned in the spring to Pender. The murder occurred in September. Justice Ramsey has misquoted this testimony changing "a long time before the murder" to a "short time before the murder."

The opinion of the supreme court affirming Pender's death sentence has a number of entirely inaccurate statements like the above, but there is this to be said of the members of the supreme court, and that is that several of them who signed this opinion were bound by ties of personal interest and association to St. Helens and Columbia County. The sentiment in Columbia County in regard to this murder was very bitter, and public opinion demanded that somebody should be punished for it.

Chapter VII.

THE CRIME INDICATES THE CRIMINAL

Comparatively little attention is paid by detectives and sheriffs to the minor details of a murder, though these often reveal the character of the man who committed it. Sheriffs are too apt to be elected to office because they are popular and good "hand-shakers" and are more or less wise politicians. These pleasant qualities are very necessary of course, but they don't include any knowledge of feeble-minded or insane persons who have homicidal tendencies. Very obviously in murder cases where there is no direct evidence but only what is called "circumstantial evidence," persons who make a business of detecting crime should be fully informed of the characteristics of all kinds of criminals. For instance, the ordinary murderer is completely satisfied when he kills his victim. He does not continue to assault the dead body the way a baboon or wild animal would do. We do know, however, that half-witted men sometimes commit murder and that they act like wild animals. Dr. Goddard in his "Criminal Imbecile" tells of a weak-minded young man who killed his school teacher. He stabbed her body 24 times in order to make a "good job of it."

In this Columbia County murder Mrs. Wehrman's body was shot three times, the revolver being held so close that each time the flesh was badly powder burned. The doctor said any one of these shots would have killed her. Then the murderer picked up a hatchet and smashed her skull with it. The body of the child was also shot three times and the wounds were all badly powder burned. Any one of the shots would have killed the child.

Here is circumstantial evidence of genuine value that a feeble-minded man killed Mrs. Wehrman. Notice how this circumstantial evidence coincides with the facts. The Wehrmans had nearer neighbors than the Penders, and in one of them, the G. H. Sierks family, there was a defective and thoroughly vicious young man by the name of John Sierks. This young man according to his own father had homicidal tendencies when he was opposed and had tried on different occasions to kill different members of his own family. He had a weakness for liquor and guns and his sex habits were vicious. His ambition in life was once expressed by him in a desire to kill the old son of ———, his father, and then he could get rid of the rest of the family and

inherit the property and get married and be somebody. He had failed both in poisoning his brother and in killing his father and was away from home and in Washington County, where he was at work for Louie Schmidt near Helvetia. However, he went home frequently and his sister Lena Sierks, who was removed from her father's home in the spring of 1916 upon the request of citizens and officials in Scappoose, has volunteered the information, and repeated it, that her brother John Sierks was at home two days before the Sierks family discovered the dead bodies of their neighbors, Mrs. Wehrman and her child. For it was the Sierks family who discovered the murder and who kept it to themselves twenty-four hours, according to Mrs. Sierks' testimony at the trials of John Pender for murder. Here are her words: "It was the second (?) of September when I went to the Wehrman's house, and the door was locked with a padlock; I thought she was gone. I wanted to see what time it was, and we looked into the window, my daughter and I. We saw Mrs. Wehrman lying on the bed; she was bare, her legs were bare. I went around the house. I saw some blood there, but I did not know where the blood came from, so I went home. I thought she was asleep. In the night I worried. I didn't know how it came the door was locked from the outside; I worried all night about the padlock. The next morning my daughter said, "We shall go back again." We went back. We saw the door was locked; we looked into the window again, and we saw her lying the same way that she did on Tuesday. So I went around the house alone, and I saw blood there, and then we went home and notified Scappoose that something had happened there, and notified the sheriff, and Mr. Grant he came out there and looked after it."

The idea that John's mother could imagine that Mrs. Wehrman was asleep with her body partially naked hanging over the bed so that the feet touched the floor, with the window blind up so that outsiders could look in and tell the time by the clock, is foolish. Then to say that she saw blood on the ground by the house and that she did not know where it came from, adding, "So I went home; I thought she was asleep," is evidently untrue. Mrs. Sierks practically admits the untruth by saying she went home and worried all night about the padlock which locked the door on the outside, and the next day went back and looked at the body and padlock and the blood and then "notified Scappoose that something had happened there."

Such a terrible murder must have made a great impression on all the Sierks family and it is natural that John's childlike mind remembered and repeated what his mother said to his sister when they thought he was asleep—"John did that." They knew from experience that John was quite capable of murder.

John Sierks was placed in the hospital for the insane by his family before Mr. Pender's second trial in 1913. John explained that he was in the hospital because his family thought he killed Mrs. Wehrman and said he heard his mother say to his sister Lena, "John did that."

About the first of January, 1915, John made a confession of the murder and it is given in full in Appendix B. After he confessed he said to a reporter that after he got back to Louie Schmidt's, near Helvetia, he wrote home that he saw in the papers that his mother committed the crime, and that he would bet that letter was around their home now. As it happened this was printed in a Portland newspaper, and the next day John Sierks' father appeared in Salem with this letter but the father said John meant "discovered" instead of "committed." Mr. Sierks had corrected the letter to read "discovered."

John told in his confession of going from the neighborhood of Hillsboro to Scappoose on the evening of Labor Day, 1911, getting a revolver from Riley and Hassen's cabin in Schnitzerville and killing Mrs. Wehrman and her child and then going back to Hillsboro the same night. This seemed a difficult feat, but two years later John's sister Lena explained that John was at home on a visit for a couple of days just before they found Mrs. Wehrman's dead body. He was at home at the time of the murder but did not go and come as he said he did.

John said Mrs. Wehrman fired her revolver at him as he went into the cabin. The sheriff testified at Mr. Pender's trial that he found a .32 caliber bullet in the wall to the right of the door. Mrs. Wehrman had a .32 caliber revolver.

John said he found a hatchet in the wood box and "chopped and split her skull." The testimony of Mr. Wehrman was to the effect that the hatchet was kept in the wood box.

John said he took off an undergarment from Mrs. Wehrman. This was done by some one. John said he washed his hands in the basin and padlocked the door on the outside. These things were done according to the testimony.

John said he buried Mrs. Wehrman's revolver. This has not been verified, but the revolver has disappeared.

After John's confession his father wrote him he had disgraced the family and that they would go away. John wrote him an answer without anyone's knowledge and said he was sorry they had given him up, but that he killed Mrs. Wehrman. Then when his father arrived in Salem John repudiated his confession.

After John Sierks' confession was repudiated it was considered that John had a good alibi, as his employer, Louis Schmidt, thought John was not away at the time of the murder. However, two citizens of Washington County told me that John was in Holbrook and that he came from the direction of Scappoose just at the time of the murder.

Following is a sworn statement:

I, L. Nitchman, being duly sworn, depose and say that I live on my farm in Shady Brook School District, where I have lived about three years, and previous to this time I lived on my farm in Mason Hill School District, in Washington County, and that I was living there during the years of 1910 and 1911. I have known John G. H. Sierks for about six years. He came to my farm in Mason Hill about six years ago and asked for work, and I gave him work slashing timber, and he boarded in my family while working for us, and for several years he came to me at intervals for work, and I gave him work for short periods, and he lived in my family, so that I knew him well. He did fair work by being looked after. John Sierks did some work for me in the spring of 1911, and on leaving me I got him a job with Louie Schmidt, whom I know. It is about six miles in a direct line from my farm on Mason Hill to Louie Schmidt's, and John came to see us twice, I am positive, and perhaps three times while he was at work for Louie Schmidt.

I remember that John Sierks came to our farm at just about the time of the murder of Mrs. Wehrman, but whether it was before or after I cannot say, and said that he came from Holbrook and had been in Scappoose. This was either on a Sunday or a holiday, for I was not at work in the field on the farm at the time. It was late in the afternoon when John came and he sat with his head in his hands and cried and cried until my wife was frightened and called me in from doing my chores. She said John was in trouble and said among other things, "I am so sorry." I told my wife that John was drunk. He was telling how harsh his family was to him. John said that his watch was broken, and that he had been in a fight, and I think that his face was scratched.

In regard to the Wehrman murder, I think that John told us about it before we saw the news in the papers. I remember his saying something about its being lucky that he was not at home or they would have blamed him for it.

After John left Louie Schmidt in the fall of 1911, he came to my place for a short time and then he went to work for one of my neighbors, a Mr. Dean.

It is impossible to remember exactly as to the dates of John's visits, but I am positive that he did come to visit us while he was at work for Louie Schmidt, and at about the time of the murder he came and I thought he was drunk because he was crying constantly, which was a thing he had never done before while at my house, and said he came from Holbrook and had been in a fight. It is my recollection that John slept in the barn that night, but of this I cannot be positive. It is also my recollection that John told us about the murder before we saw it in the papers. L. NITCHMAN.

December 2, 1915.

W. C. Hunt, a blacksmith of Holbrook at the time of the Wehrman murder, had employed John Sierks, and John stopped at his place in going and coming from Washington County. Mr. Hunt says that just about the time of the murder of Mrs. Wehrman and her little boy, John Sierks came on foot from the direction of Scappoose with the bundle of blankets and stuff that he usually carried when going back and forth, and stopped at Mr. Hunt's for dinner. Mr. Hunt does not remember whether it was Sunday or not, but he does remember that he was not at work in his shop. He noticed that John's face had some fresh scratches as if he had been through some briars, and he asked him, "Who peeled your face?" John replied that he had been in a fight with a man in Dutch Canyon, and that he had his watch broken in the fight."

Mrs. Hunt also remembered of John coming from Scappoose on Labor Day, as she believes, and stopping for dinner on his way to Mr. Nitchman's. John was scratched up and told of being in a fight and of having his watch broken.

In May of 1916 three of John's former employers, L. Nitchman, W. C. Hunt and Walter Dean, visited John in the hospital. John told them of dates he went to work for each one and spoke of stopping at Mr. Hunt's for dinner on Labor Day, September 4, 1911, on his way back to Washington County from his home

near Scappoose, and of eating supper the same day at Nitchman's.

On the 23rd day of June, 1916, when I took Lena Sierks to see her brother, the matter of John's memory was mentioned and he gave the dates he went to work for his different employers and spoke of being in Scappoose at his father's on Sunday and the following Monday, Labor Day, September 4, 1911, and of stopping at Mr. Hunt's at Holbrook and at Mr. Nitchman's at Mason Hill on September 4.

I asked Lena Sierks if it was true that John was at home at the time he said he was and she replied that he was at home a couple of days before they found the dead body of Mrs. Wehrman, and that he was also at home two weeks later.

John Sierks told us of being in a fight in Dutch Canyon (where the Sierks and Wehrmans lived) and of getting badly scratched up on the occasion of his visit on Sunday and Labor Day, September 3 and 4, 1911.

I asked Lena Sierks if it was true and she said that John came home with the side of his face badly scratched and also the back of his neck scratched and she showed us where the scratches were.

I made no allusion to the murder and that subject was not discussed.

On July 15, 1916, at the Boys' and Girls' Aid Society in Portland, Mr. John F. Logan, with his stenographer, talked with Lena Sierks, Mrs. Harriet H. Heller and I being present.

Lena Sierks said to us repeatedly that John was at home a couple of days before they found Mrs. Wehrman's body and also two weeks later.

This destroys the claim that John never left Louie Schmidt's all summer to go home. It also establishes the fact beyond a reasonable doubt that John Sierks was at his father's home about half a mile from the Wehrman cabin on the day when Mrs. Wehrman and her child were killed. The Sierks family concealed this fact for several years, but the truth came out in 1916 when Lena Sierks left home and went to Portland to live. The reasons for the concealment can be easily imagined.

Chapter VIII

THE HAIR FOUND IN MRS. WEHRMAN'S DEAD HANDS

When Mrs. Wehrman's body was examined by a physician it was found that there was considerable foreign matter under her finger nails. There was no microscopic examination made of this foreign matter but it is assumed, and probably correctly, that Mrs. Weshman endeavored to fight off the man who killed her and that she scratched his face and head. Some brown hair was also found clutched in her dead hands. There was one brown hair found in one hand and a little tuft of brown hair of a lighter color found in the other hand.

It was assumed, without any proof of course, that Mrs. Wehrman, after she had scratched the murderer's face and got the foreign matter under her finger nails, proceeded to pull a hair out of her own head with one hand and then to pull several hairs out of her child's head with the other hand just before she died.

Arthur Pender had black hair, while the hair found in Mrs. Wehrman's hands was brown. Examination under the microscope by Dr. J. Allen Gilbert gave the following results in the matter of the hair:

The hair found in Mrs. Wehrman's hand looked very much like the hair out of John Sierks' head. However, the hair cut from Mr. Wehrman's head and from Mrs. Wehrman's head did not differ in any noticeable fashion from the hair found in Mrs. Wehrman's left hand, so the results of the examination were entirely negative. They did not prove anything either way. The hair found in Mrs. Wehrman's right hand, which was lighter in color, appeared to be much like the hair of Mrs. Wehrman's little boy.

Later I had the professor of biology at Reed College look at these slides through his microscope, and he expressed the opinion that the hair cut from Mrs. Wehrman's head was darker than the hair found in her hand.

I was told that the only way to make a satisfactory test would be to have two microscopes arranged with a reflection of glasses so that one could look through the aperture for the eye and see the two samples in the two microscopes at the same time. This is called, I believe, a comparison microscope, but nothing of the kind is to be found in Portland. It is impossible to look at one sample of hair and change the slide and notice small differences.

The net result of this examination of the hair simply proved that the hair found in the dead woman's hands was not Mr. Pender's. Beyond that the results were negative and neither proved nor disproved that the hair was John Sierks'. It looked like John Sierks' hair and that is all that can be said. As for the fine hair of lighter color in Mrs. Wehrman's right hand, I am informed by reliable witnesses that John Sierks allowed his hair to grow long and that he had an unusual growth on his neck. The latter fact I know to be true. When John Sierks lived out of doors his hair bleached to a light color in the sun of the summer, and it is possible that this fine hair of light color was pulled from the neck of the man who shot her to death, for the powder burns proved that the murderer was close to her and held the revolver against her body.

The following curious information was volunteered by N. E. Persinger, an intelligent young man in Washington County:

"I, N. E. Persinger, being sworn, depose and say that I live in Shadybrook, Washington County, and that in September, 1911, I lived at my father's place in Mason Hill, Washington County. I knew John G. H. Sierks at the time he worked for L. Nitchman and during the following two years. He used to come to our house occasionally and I went out hunting with him on one occasion and I became well acquainted with him.

Some days after the murder of Mrs. Wehrman and her little boy at Scappoose early in September, 1911, John Sierks was talking to me about the murder and said "Pender did it; I know he did," and he cursed Pender and said he would get him for it. About the time of this conversation John Sierks asked me if hair would grow in again and took off his hat and showed me a small spot on the top of his head where the hair had been pulled out by the roots. He was quite anxious to know whether the hair would grow again.

John Sierks wore his hair long on his neck and it was bleached to a very much lighter color than the hair of his head.

John said he knew Mrs. Wehrman well.

N. E. PERSINGER."

The sworn statement of Frank Persinger agrees in the main points with his brother's.

THE RECONSTRUCTED STORY

A simple way to analyze the various facts which have been slowly discovered about John Sierks is to relate the main inci-

dents of his confession and examine the details and see if it will be generally corroborated by independent testimony.

John Sierks, who has the mind of a boy of nine years plus nearly 20 years' experience (Dr. De Busk of the University of Oregon estimates John's mental age as nine), could not get along at home nor could he go away from home and stay without frequent visits. That is characteristic of weak-minded persons. He was at work for Louie Schmidt near Helvetia on the United Railways, but he had to visit home often. His sister Lena, now that she is away from her father's influence, has said on two occasions that John was at home a couple of days before they found Mrs. Wehrman's body and also two weeks later.

John was attracted by Mrs. Wehrman and finding her alone on Sunday (after her husband started for Portland), he made improper proposals to her probably while he was under the influence of liquor, and she attempted to defend herself. She had a .32 caliber revolver and John says she fired at him and the bullet passed to his right as he entered the door. At Mr. Pender's trial Sheriff Thompson testified that he dug a .32 bullet out of the wall at the head of the bed. Examination shows that the head of the bed stood against the wall to the right of the door as you enter, so this detail is corroborated.

John had a .38 caliber revolver and advanced on Mrs. Wehrman and fired three shots into her body after a struggle with her and emptied the other chambers into the head of the child, holding the revolver so close that all the wounds were badly powder-burned.

During the struggle previous to John's shooting, Mrs. Wehrman scratched his face and neck and pulled his hair out in a vain attempt to fight him off.

John, feeble-minded fashion, after he had shot the woman to death, took the hatchet and broke in her skull so as to be certain that he had done a good job. Then he took off her drawers and placed them under her and assaulted her. He told of this, and when he repudiated his confession he said he saw about the drawers in the St. Helens Mist. The paper printed no such detail.

The drawers were found under Mrs. Wehrman's body where John said he placed them.

Then John washed his hands in the basin at the door, locked the door with the padlock on the outside and threw away the key.

Later Mrs. Sierks said she was much troubled at seeing Mrs. Wehrman on the bed with her bare legs hanging over the edge and her feet on the floor, while the door was padlocked on the outside and blood had dripped to the ground from the cabin.

John went home and the family saw the evidence of the struggle and the scratches on his face and neck as his sister Lena has described. The family knew John from bitter experience—his homicidal tendencies when he was opposed and his lustful inclinations. Of course they made inquiries and guessed what had happened. However, they were in no way responsible and they did not absolutely know. At the same time they could not stay away from the cabin where there was blood on the ground and a door locked on the outside and a woman across a bed with legs uncovered, but they professed to believe that the woman was asleep. Finally on Wednesday, as no one else had discovered the murder, Mrs. Sierks and Lena went to Scappoose and told Mr. Sierks that something must be done. They did not tell any of their neighbors though they met at least one on their way to Scappoose.

Sometime previous to the murder, G. H. Sierks and John A. Pender had a quarrel decidedly bitter on Sierks' part. He wanted Mr. Pender to sign a road petition and Pender declined. On one occasion Mr. Pender had a valuable bull dog belonging to his brother-in-law, and he had the dog fastened near his tent house at Schnitzerville. Sierks attempted to make friends with the bull dog and though Pender warned him to leave the dog alone he would not. The dog broke loose and bit G. H. Sierks, which angered him greatly.

On a later occasion Mr. Sierks came to Pender's place and had his son John Sierks with him. At that time Sierks threatened to shoot Mr. Pender and actually pointed his gun at him, but Mrs. Pender says she grabbed the gun barrel and threw it up. She thought Mr. Sierks was temporarily insane. Sierks, however, did shoot and kill the bull dog.

Chapter IX

JOHN SIERKS' LETTERS ABOUT THE MURDER

On Wednesday, September 6, the murder was discovered and the indications were that it had been committed on the Sunday previous, September 3, and this was printed in some of the newspapers at the time.

Nobody knows who first suggested Mr. Pender's name in connection with the murder, but the news of the murder came from the Sierks family on Wednesday, September 6, and Mrs. Sierks and Lena admitted their knowledge of the situation for one day before they told of it. This is suggestive in view of what we now know about John Sierks being at home on September 3 and 4. He started back to Washington County on Monday, Labor Day, September 4, and stopped at Holbrook and ate dinner with Mr. and Mrs. Hunt. He explained his scratched up condition by saying he had been in a fight. He went on to Mason Hill in the afternoon and stopped at Mr. Nitchman's, whom he often worked for. He explained here also his scratches and told of his broken watch and then frightened Mrs. Nitchman by breaking down and crying bitterly and exclaiming that he was so sorry. Mrs. Nitchman called her husband and he assured her that John was probably drunk. John slept that night in the barn and left early for Schmidt's. This was on September 5, 1911. On September 8, 1911, he writes the following letter to his father:

"September 8, 1911.

"My dear father:

Your letter to the 23rd (?) of September is received. I was glad to hear from you. I have read a piece in the paper yesterday, the 7th of September, of Mrs. Wehrman and her little boy Harold, our nearest neighbor got killed by a murderer. They got shot and then hacked up with a hatchet. That was an awful dirty trick whoever done it. I never thought a thing like that would happen in our home. How is mamma and the children getting along? Are they still alive? I will be out of work in a few weeks and then I will pick up my clothes and come home. I would be a damned fool if I would want to do a thing like that to go and murder anyone of my folks; I would rather have a bullet thru my head before I would do a thing like that is, to go and be a murderer, liar and thief. Them things won't go at all; that is lying, stealing and murder business. That

man who did that will be sure to find his grace, it don't make any difference whoever it may be, he is not sure of his life. He will be punished all of his life for that what he done today. The 10th of September, I read about him in another paper that he had fired five shots; three shots were fired in Mrs. Wehrman and two were fired in the little boy, Harold, and that they were all found and mamma, her name was also in both papers that she committed (Mr. Sierks says he meant to write discovered) the crime. That is too bad about that poor woman anyhow that she had to lose her life on account of a misery. Everybody that read about her say that he will find the way into the pen for that, if the Sheriff finds him they say. If they put blood hounds out he is sure they would soon find him. I hope that nothing like that will happen at our home for I don't want to lose mamma and the children. I have got trouble enough without that that I have to bear that something has happened to mamma and the children, are you? If I should happen to come and not find you there, it will be all off with me.

Well I must close for this time for news are running short, I remain,

Your loving and faithful son,

JOHN G. H. SIERKS.

R. R. 1 box 122, in care of J. S. Schmidtt.

Write as soon as possible again and will you please tell mamma to write to me also."

The letter tells its own story. The father preserved it and over three years later when John confessed that he did kill Mrs. Wehrman, G. H. Sierks went to Salem and took this letter to prove that John was innocent.

However, John, who has unusual memory, got ahead of his father and told a reporter of the Portland News about this letter and what he said in it and the News printed what John said about this letter before G. H. Sierks arrived in Salem.

The News account follows:

Portland News, Jan. 5, 1915.

(Interview with John Sierks.)

"After I went back to the farm, I read about this about four or five days afterwards. Then I wrote my mother. I told her that I had read in the papers that Daisy Wehrman and her boy had been killed and that she had found the bodies. I accused her of doing it. That was only a blind (here you could see a

look of cunning in his eyes) because I didn't want her to think I did it. I bet that letter is in the house now.

"After I came home I heard my mother tell my sister that she bet John did that."

It was at this time within a couple of weeks after the murder that John consulted N. E. Persinger and his brother Frank as to whether his hair would grow in where it had been pulled out. He also talked of the murder and was violent in his denunciations of Pender as the murderer. Mr. Pender was not arrested until the 15th of September.

We know from Lena Sierks, as well as John, that he visited home again two weeks after the murder. That would be about September 17. This was after John had left Louie Schmidt and had gone to work for W. P. Dean. After the murder, according to Hedinger who worked at Schmidt's, John talked a good deal about the murder and wrote and received letters from home about it, and became of no use on the farm, so Mr. Schmidt let him go about September 11 or 12. On September 14 John went to work for W. P. Dean as John volunteered from his memory, and as W. P. Dean's account book shows. Mr. Dean says that John was nervous about something and always wanted to get the newspapers to read before anyone else in the family saw them. Dean thought it was because the Wehrman's were neighbors.

After John returned from his visit at Scappoose on or about September 17, he wrote another letter to his father about the murder and about his scratches and broken watch. He got these scratches before September 4 as we know from John, from Lena, from Mr. and Mrs. Hunt and from Mr. and Mrs. Nitchman, and he got them when he was at home, but still after another visit home he wrote home how it happened. Here is the letter:

"Hillsboro, Oregon, Sept. 24, 1911.

"My dear Father:

I write you a few lines and tell you that I am well yet and hope the same of you. I read in a paper the other day about the crime that happened down there in Scappoose. I read in the paper yesterday that they thought that Mr. J. A. Pender might be the murderer of this woman and her little son. It was an awful dirty trick whoever done it. He ought to be hung up by his ears for doing that. I wish they could find the right man that done that. I would put in a word that they hang him up for that murder business. I was figuring to come home the 30th

of October but I don't think I will for awhile now that I can get plenty of work yet. I am done at J. L. Schmidt's and now I am at a man named W. P. Dean digging potatoes. I will have two months' work there and from there I will go to Mr. Nitchman and stay over winter. I have tried to save up a little money and buy me a new watch. I broke mine all to pieces. I got in a fight with a couple of drunkards and got my clothes all torn up and besides my face beaten in and all fixed up in good shape for awhile. I had to buy me some new clothes again and also medicine to heal myself up. I am all right now though I have an awful headache about them damned fools that broke my watch up for me, but I will get even on them yet. I will shoot their damned heads off if I ever get a hold of them and I don't care if they put me in the place where Pender is. I don't care a bit for that. I have to have my money to buy a new watch again. I could not be without one. I will try with all my might so that I get something out of them if I can. Well I must close for this time. I remain Your son,

JOHN G. H. SIERKS.

R. F. D. No. 1 box 43 in care of L. Nitchman, write soon."

This letter the father preserved also, and when he came to Salem after John had confessed to the murder about the first of January, 1915, he brought this letter with the previous one to prove that John was innocent and that he merely imagined that he had killed Mrs. Wehrman. This letter is very significant because it explains elaborately the scratches and broken watch which the Sierks family, the Hunt family and the Nitchman family all knew about as early as September 4.

There is no escape from the conclusion that John and his father were trying to establish an alibi for John by means of these letters in case John should be accused of the murder.

G. H. Sierks has persistently to this day denied that John was at home at the time of the murder or even soon after, and the truth has come out only through Lena Sierks leaving home in 1916, where she was so unkindly treated that the neighbors complained and had her removed from her father's control. The sworn statements of the Hunt family and the Nitchmans also confirm Lena's statements that John was at home just before Mrs. Wehrman's dead body was discovered.

These late discovered facts explain why Mrs. Sierks and Lena did not tell their neighbors or the authorities as soon as they

discovered that Mrs. Wehrman had been murdered. They evidently hoped that somebody else would discover the murder. These facts indicate how John Pender, whom G. H. Sierks hated and had threatened to kill, came to be accused of the crime. John Sierks was to be saved from the disgrace of a murder and Sierks' hatred of Pender was to be gratified. Sheriff Thompson and Detective Levings accepted the theory and worked with great industry and expense to convict Pender and finally succeeded though the jury at the first trial refused to convict. There was a doubt of Penders' guilt that hung the first jury but after many months public opinion became crystalized.

Chapter X

CONFIRMATION OF JOHN SIERKS' CONFESSION OF THE MURDER

It has taken five years for the true story of this murder to be discovered, and the two years that have passed since the facts came out have not altered the situation. John Sierks was at home when the murder was committed, and the Wehrmans and the Sierks were near neighbors. John's letters to his father, which Mr. Sierks, Sr., was so careful to keep for several years and then produce after John confessed, were written on John's return to Louie Schmidt's in Washington County to establish an alibi evidently. These letters were possibly suggested by some friend of John's though that will probably never be known. We only know that there must have been some motive in these letters because John was actually at home according to his sister Lena, and the letters pretend that he was away. The only possible motive was to set up an alibi and throw suspicion on Mr. Pender.

The reconstructed story as related in the previous chapters is all proven by independent testimony except the act of murder by John Sierks in the Wehrman cabin. For that there was no witness.

REPUDIATION OF THE CONFESSION

Some sixty hours after John Sierks had made this confession and after receiving a letter from his father, G. H. Sierks of Scappoose, saying that he had disgraced the family and that they

would pack up their goods and leave the country and never see him again, John of his own motion wrote the following letter and without consulting anyone. In fact, no one knew of it until it came into Dr. Steiner's hands. Dr. Steiner is Superintendent of the Salem Hospital.

"Salem, Oregon, Hospital Station,

"My dear Father:

January 5, 1915.

I received your letter and also the presents that my uncle and aunts and cousins sent to me. I thank you very much for sending them to me, I feel awful sorry that you have given me up. My dear Father, but there is no one else to blame but myself. I would rather be in the penitentiary than to stay all my life long in the asylum where I cannot have my liberty. If I am at the penitentiary I would have my liberty no matter how bad I am. I know that when I was a boy of 14 years old what a little Devil I was and the older I got the worse I got until I finally had to be sent to a place where I have to behave whether I want to or not. But I am going to make my life pretty some day when I get a chance for I am tired of living any longer. I would rather be dead than alive for I am convicted of murder in the first degree. I am the murderer of Mrs. Daisy Wehrman and her little son. I am the man that done the dirty trick and lied on Pender. I may be in St. Helens in a few days or so on my trial and I may see you and mother and sister and brother, Otto, for the last time and no more.

Well, I will close for this time. With love and best regards to you all, I remain, Your loving son,

JOHN SIERKS."

If John Sierks had not killed Mrs. Wehrman and her boy, Mrs. Sierks and Lena would not have concealed the murder for 24 hours as they admit doing (and probably 48 hours) on the pretense that they believed Mrs. Wehrman to be asleep lying across the bed with her bare legs hanging over the side and her feet on the floor, and when the door to the cabin was padlocked on the outside and blood was on the ground which had dripped from the cabin. If they had not been reasonably certain that John did the deed they would have raised a hue and cry at once when they visited her cabin.

If John Sierks had not killed Mrs. Wehrman and her boy Mr. Sierks and his family would not have denied that John was

at home when the murder was committed, nor would these two partly cunning and partly simple letters have been written by John to his father and then carefully preserved by G. H. Sierks to prove an alibi for John when the time came that John was suspected.

If Lena Sierks had not been taken away from her father's control the fact that John was at home at the time of the murder would never, probably, have been established.

If John Sierks had not killed Mrs. Wehrman and her boy he would not have gone back to work scratched up so that the Hunt family and the Nitchman family noticed it, and John's various explanations of it would not have been made, beginning Labor Day and finally culminating in an elaborate letter to his father on September 24, which was written after he had been at home on or about September 17.

If John Sierks had not been guilty he would not have had to inquire of the Persingers within two weeks after the murder if his hair would grow in where it had been pulled out.

If John Sierks had not killed Mrs. Wehrman and her boy he would not voluntarily and without suggestion said to Mr. MacLaren that his family put him in the hospital because they thought he killed Mrs. Wehrman.

If John Sierks had not killed Mrs. Wehrman and her boy he would not have confessed to the crime to ease his unhappy soul.

If John Sierks had not killed Mrs. Wehrman and her boy he could not have told the details of the murder with the accuracy he showed. He did not refer to the fact that a .32 caliber bullet was found in the wall at the head of the bed. He only said that Mrs. Wehrman fired her revolver at him and that the bullet went to his right. The fact that Mrs. Wehrman had a .32 caliber revolver was brought out at the trial and also that a .32 bullet was dug out of the wall at the head of the bed. The fact that the head of the bed was against the wall to the right of the door as you enter the cabin was not brought out directly at all, but the fact was disclosed at the time of the murder by drawings reproduced in the newspapers and by the testimony of witnesses. John in his story of the murder told how he took Mrs. Wehrman's drawers off and for what purpose and where he placed them. In repudiating his confession he said he saw that detail in a newspaper, which is absurd.

If John Sierks had not killed Mrs. Wehrman and her boy the

people of Columbia County would not have been imposed upon by a clever scheme to saddle a terrible crime on John Pender who was hated by Sierks.

The detectives employed by the State and also the detectives employed by the Pender family showed a complete ignorance of the nature of the murder and the kind of man who must have committed it, and accepted as final the statements of the Sierks family that John was not at home at the time of the crime. If they had been moved by a desire for scientific accuracy they would have travelled some 15 miles and looked up John Sierks, and then the whole thing would have come out. This would have saved the taxpayers of Columbia County some six thousand dollars, and would have saved them the tragedy of convicting an innocent man.

Chapter XI

CIRCUMSTANTIAL EVIDENCE

It is claimed to be a rule of law and evidence that an accused person must be regarded innocent until he has been proven guilty. This is the theory, but as a matter of fact we all know that when a man is suspected of murder, arrested and accused, we all begin to wonder how he is going to clear himself of the charge. As a matter of fact no man can clear himself unless he can prove an alibi—that he was somewhere else at the time—or unless it is clearly shown that someone else committed the crime.

Circumstantial evidence from its very name obviously consists of inferences from proved facts. In criminal trials, like that of Arthur Pender, where there is nothing but circumstantial evidence, it means that there is no testimony from any person as to any overt act by the accused which tends to show that he committed the crime. It is all a question of circumstances, and those circumstances must be such that the ordinary, every day experiences of mankind justify the inferences that the conduct of the accused person in view of the circumstances was criminal, or else the accusation of crime falls to the ground. We frequently hear of a "Scotch verdict," which describes the verdict "Not Proven" in Scotland when the jury thinks there is some foundation for the charge but where the evidence does not warrant a verdict of guilty. This peculiar form of verdict does honor to perhaps the most intellectually acute people of the modern world for the words "not proven" may actually describe the conclusions of intelligent men who weigh evidence and who cannot conscientiously convict or acquit the accused on the inferences to be drawn from the facts or circumstances.

There are three risks in accepting circumstantial evidence as proving or disproving an accusation of crime. The first is that the chain of circumstances may not be complete and that the inferences in consequence may be false. The second is that the circumstances may not be fully or absolutely established. This is the greatest danger of all, for it is the most common failing of men and women to assume offhand that a certain circumstance is absolutely a fact when it may not be so at all. Of course an inference from a false assumption is bound to be false. In the every day affairs of life this is perhaps the most common cause of failure. Men often do not get their facts absolutely, but guess

at them in part and so frequently fail in their undertakings. In the case of a jury trying a man for murder the careless readiness to assume that certain circumstances are proved when they are really based on an inference or a "maybe" or "might be" has been responsible for many a miscarriage of justice. This is the most vicious defect in the administration of the criminal law in the United States. The trial judges leave it to the juries because the juries are judges of the facts, and superior courts as a rule affirm all convictions where the trial has been formally correct.

The third danger from the acceptance of the inferences from the circumstances is that the accused person may have been actuated by some motive known only to himself and not obviously apparent. That motive may have its roots in some personal peculiarity or even aberration which leads the accused to act in a different way from the mass of men. For instance the crime of murder involves wilful malice. In 1917 a man was convicted of murder in Multnomah County and sentenced to the penitentiary for life. The killing was proved and the inference from the proved circumstances was that the murder was done with malice aforethought. However it developed within 90 days that this so-called wilful murderer was a paranoiac and had "delusions of persecution" which rendered him entirely irresponsible. The disease developed so fast after he was confined in the penitentiary that he had to be removed to the criminal insane ward of the state hospital. In this case the man needed to be confined and the only injustice was the destroying of the reputation of an unfortunate and wholly irresponsible person.

ARTHUR PENDER'S TRIAL

In Arthur Pender's trial there was no circumstance of any kind which necessarily connected him with the crime. In addition there was no circumstance which stood by itself as firmly established. Even on the theory of District Attorney Tongue and Mr. Levings, the detective, the validity of the circumstances all depended upon each other. That is to say, the inference drawn from a disputed fact was needed to help bolster up another fact also of uncertain standing This is not only bad logic but it is condemned in law. Its basing one inference upon another which is forbidden. An inference based upon a fact is legitimate but a double inference is not allowed.

THE SCRATCHED BULLETS

On Wednesday, September 6, the Sierks family informed the

sheriff that Mrs. Wehrman had been killed. It was assumed by the sheriff from indications that the murder was committed on Sunday, the 3rd. Then Monday, September 4, was fixed as the day, and as the detective's theory came to be developed the time was set sometime Monday night after 6 P. M. There was no evidence to support this idea but the theory offered was that a Colts revolver had been stolen by Pender from Riley and Hassen's cabin, as Pender had no Colts revolver, and that the killing was done with this gun. The evidence that this gun was used consisted in the fact that the bullets were scratched by a gas pit in the barrel and that this particular gun had a gas pit which did scratch the bullets fired out of it in a similar manner. Mr. Levings was the expert witness for the prosecution and his testimony was absolutely contradicted by Detective Craddock, a revolver expert on the Portland police force.

It cannot be claimed Mr. Levings expert testimony to sustain his own theory proved the fact that a gas pit in a revolver barrel would scratch a bullet in face of the opposing testimony of Detective Craddock, a recognized revolver expert of years of experience. It was simply a case of "maybe." Even if Mr. Levings was right it did not prove that this particular Colts revolver was the only one with a gas pit in the barrel.

Then the theory that the revolver was stolen made it necessary to claim that the murder was done sometime Monday night because Riley and Hassen were at home all day Sunday and all day Monday until nearly 6 P. M., when they left for Portland. So the time of the murder was made to depend upon the scratch on the bullets from which the inference was drawn that they were fired from the revolver in Riley's cabin, but that could not have been stolen before Monday night at 6 P. M. because the owner was at home up to that time. In addition there was no direct proof that the revolver had ever been stolen by anybody. That, too, depended on the inference that the bullets could not have been scratched by being fired from any other revolver. If the revolver was stolen it was returned, as admitted by the prosecution. Here was another "maybe." Riley and Hassen's testimony as to whether their cabin was entered depended on the appearance of a window blind and the condition of the trunk. The time when it was entered was also disputed by the very owners of the cabin at the different trials. They came home on September 10 and on September 17 . If they did not discover the signs of entrance on September 10 (the murder occurred a week before)

then the whole theory that this particular revolver was used fails. Here is another "maybe" for the testimony of the prosecution's witnesses was contradictory. There was also a complete uncertainty as to whether the revolver was loaded when placed in the trunk and when found afterwards or whether it was placed in the trunk unloaded and later found loaded. Here is still another "maybe."

The accusation of murder against Mr. Pender depends on the theory that he stole the revolver Monday night, used it to kill Mrs. Wehrman and returned it loaded, and that theory rests entirely on the fact that the bullets were scratched. That is to say "maybe" the bullets were scratched by Riley's revolver and "maybe" not. "Maybe" Riley's cabin was entered before the murder and "maybe" not. "Maybe" the revolver was taken from the trunk and "maybe" not. "Maybe" the revolver was loaded when placed in the trunk and "maybe" not. "Maybe" Mrs. Wehrman and her child were murdered Monday night and "maybe" not. "Maybe" Mrs. Wehrman and her child were killed with Riley's revolver and "maybe" not. It all depends upon the scratches on the bullets found in the Wehrman cabin. There was nothing but "maybes" offered by the prosecution in addition to the bullets.

WHERE WAS MR. PENDER?

The theory of the use of the revolver just referred to depends upon Mr. Pender's stealing it sometime in the evening of September 4 and then going to the Wehrman cabin. Mr. Pender said he was in his tent house near Riley's (which was a mile from Wehrman's cabin) the evening of September 4 and that he had a lantern lit inside. A neighbor who passed testified that he did not see the light from the lantern shining through the tent fly. It was not claimed that anybody saw Pender. The witness did not see the light in the tent so the inference was offered to the jury that Mr. Pender had stolen the revolver and gone to the Wehrman cabin—"maybe."

Mr. Pender used to get the mail at Scappoose and put it in a box near his tent house for his neighbors to help themselves. An Iowa paper and a small package were found unopened in the Wehrman cabin, and to support the theory that Mr. Pender took them there was the testimony of a very contradictory nature that Mr. Pender asked for the Wehrman mail on Monday. "Maybe" he did. The Supreme Court of Oregon in its opinion on the Pender case uses the following words: "He (Pender) may have

taken the Bates package and have kept it until he obtained the Iowa paper the next day, and he may have taken the package and the paper to the Wehrman cabin on Monday night as an excuse for making a call on Mrs. Wehrman, and the murder may have been committed immediately thereafter." The highest court in Oregon thus tells how "maybe" the whole thing happened. The Supreme Court did not know that Mr. Wehrman testified at the preliminary hearing a few weeks after the murder that the "package" was at his cabin on Sunday before he left for Portland. This eliminates the package, but it's pure guess work as to the paper, as the Supreme Court admits in saying that Pender may have taken the paper to the Wehrman cabin.

SCRATCHES ON MR. PENDER'S FACE

Foreign matter was found under Mrs. Wehrman's finger nails and some witnesses testified that Pender's face was scratched. Other witnesses as well qualified apparently as the first did not see any scratches. The inference that Mrs. Wehrman scratched Pender's face from the fact that there was foreign matter under the finger nails of Mrs. Wehrman's hands was not sustained by testimony. It's another case of "maybe." This is a doubtful "maybe" because Mrs. Wehrman in her struggles had pulled out some brown hair from someone's head and the hair was found in her dead hands. The hair was brown and Pender's hair is black.

In the Pender trial there were no circumstances established in connection with the murder of Mrs. Wehrman and her child from which any legitimate inferences could be drawn connecting Mr. Pender with the murder. The only facts were that the bullets found in the Wehrman cabin were slightly scratched and that there was foreign matter under the finger nails of Mrs. Wehrman's hands and some brown hairs in her fingers. It was not a fair inference nor a safe inference that Riley and Hassen's Colts revolver locked in a trunk in a locked house a mile away was the only revolver from which these bullets could have been fired. Neither was it a fair inference nor a safe inference that Mrs. Wehrman scratched Mr. Pender's face. The fact that the hair in her fingers was brown while Mr. Pender's hair is black goes directly against the inference that Mr. Pender was assaulting her and that she fought and scratched him.

The whole theory of the prosecution of Mr. Pender rested on the bullets and foreign matter under Mrs. Wehrman's finger

nails and the brown hairs. The stolen revolver, the mail, Pender's presence at the scene of the murder are all inferences or "maybes," and each of these inferences had to depend upon the others for mutual support.

However the jury convicted Mr. Pender of murder and the court sentenced him to be hung. This sort of thing was accepted as circumstantial evidence under the laws of Oregon and approved by trial judge and accepted by the Supreme Court of the state in this fashion. Mr. Pender "may" have taken the package, he "may" have kept it till he got the Iowa paper, he "may" have taken the paper and package to the Wehrman cabin as an excuse and the murder "may" have been committed immediately thereafter.

The distressing thing in the Pender trial as well as in the Branson trial where inferences were based on inferences and they in turn on other inferences in order to justify the convictions which were obtained in the trial courts, and which were tacitly approved by the Supreme Court of Oregon, is the undeniable fact that in Sections 783, 784, 785 of Bellingers and Cotton's Code, and Sections 794, 795, 796 of Lord's Oregon Laws, it is explicitly stated as the law of Oregon that "an inference must be founded on a fact legally proved." These laws were adopted in Oregon as long ago as 1862 and there is more than one decision of the Supreme Court resting entirely on this state law concerning indirect evidence.

The most noteworthy case was the Hembree murder trial where a conviction was reversed by the Supreme Court on this particular point. The case is to be found in the 54th Oregon Reports.

A. J. Hembree lived on a farm in Tillamook County with his wife and daughter, Ora, and two boys. Ora was 18 years old. On December 26, 1905, the two boys went away from home to visit some relatives. On December 28 at 2:45 A. M., Mr. Hembree appeared at the home of Mr. Hoyt, a neighbor, and inquired if his wife and daughter had arrived. On receiving a negative answer he said his house had burned down and that his wife and daughter were out in the cold. Mr. Hembree had arrived at the Hoyt's only partly clad and was suffering acutely from hernia, as he had left his truss off on going to bed, and so he asked that James Thompson, a brother-in-law of Mr. Hoyt's go and look for his wife and daughter.

Thompson found a bed of coals six feet square and three feet

high on what had been the center of the Hembree house site, but he could find no trace of Mrs. Hembree and Ora. Thompson notified two neighbors and they went to the site of the home and found in the embers two human skeletons, which it was admitted were the remains of Mrs. Hembree and Ora Hembree.

Hembree's story was that he and his wife occupied a bedroom upstairs and that Ora occupied another room upstairs. They were awakened in the night and found the house on fire and rushed out of doors partially dressed. Ora exclaimed that all her good clothes were in her room and wanted to go back to get them. Mr. Hembree said that he looked at the stairway and saw that it was burning underneath and told Ora not to try to go back to her room as it was dangerous. Mr. Hembree then went into the kitchen and threw a number of things outside, which were afterwards found. When he went out he did not find his wife and daughter and after looking in the barn concluded that they had gone to Mr. Hoyt's and so followed. This was Mr. Hembree's account of the tragedy, but he was arrested for the murder and tried and convicted. There was no direct evidence connecting Hembree with the alleged murder, but it was sought to establish certain circumstances from which a certain inference was offered to the jury and on that inference another inference was based to account for Hembree's motive for killing his wife and daughter.

The motive claimed was Hembree's alleged or inferred improper intimacy with his daughter, Ora. This was attempted to be proved by the testimony of a hotel-keeper in Tillamook who said that Hembree brought his daughter to his hotel a number of times when she was attending school. On February 22, 1905, Larsen, the hotel-keeper, said Hembree had been to his daughter's room "because of marks of feet there."

In June of 1905 Hembree took his daughter to the hotel and late in the night insisted on going to her room to tell her something important. Hembree testified in his own behalf that he had given his daughter money to keep for him to prevent him spending it for drink and that he went to Ora's room to get a few dollars to buy some liquor. Three men corroborated this to the extent of saying that he went to the hotel and when he came back exhibited some money and went and bought some liquor with it.

Hembree's lawyers argued that Hembree in going to his daughter's room at the hotel without any attempt at concealment

was not necessarily guilty of misconduct and that the jury was incorrectly permitted to infer that Hembree was on terms of improper intimacy with his daughter.

The Supreme Court said "Evidence showing that a party charged with crime had a motive for committing it is not requisite, though such proof is of great importance in cases depending on circumstantial evidence." The court also quotes from "People vs. Stout," a New York case, as bearing directly on this point. In the 4th volume of Parker's Criminal Reports (New York) this matter of inferential evidence from proved facts is discussed at length (pages 71 to 128) on an appeal from the trial court. Ira Stout was tried for the murder of his sister's husband, but the evidence against him was purely circumstantial, or inferential as we say in other matters. The prosecution recognized that under the rulings of the New York courts the motive for the murder must be established before Stout could be convicted in view of the fact that there was no direct evidence, but only circumstantial, that he did commit the murder.

The prosecution established the fact by competent evidence that Stout had been on terms of improper intimacy (incestuous) with his married sister for several months before her husband was killed. The court held on the appeal from the trial court that Stout's motive for killing his brother-in-law was properly deduced from this criminal intimacy with his sister and together with the circumstantial evidence that he, Stout, did kill his brother-in-law was sufficient to sustain the conviction of murder in the trial court.

ANOTHER CASE

In Volume 3 of Parker's Criminal Reports (New York) on pages 681-686 is given the decision on appeal in "The People vs. Wood." This also was a murder case where there was nothing but circumstantial or inferential evidence. Wood attempted to kill his brother and sister-in-law and their children by giving them poison. He failed in the case of the children but then got himself appointed guardian of the children's estate and then created forged claims against the estate. On his trial for murder evidence was offered and admitted over protest tending to prove these other crimes in order to establish a motive for the murder for which he was being tried.

The case was appealed for a writ of error on the ground that evidence had been admitted tending to prove other crimes

against the defendant. The court refused to grant a new trial because the evidence offered concerning other crimes of the defendant was legitimate in this case because such evidence tended to establish the motive for the murder for which Wood was being tried.

Justice Johnson said: "The case being one of circumstantial evidence wholly, proof of the existence of a criminal motive in the mind of the prisoner to commit the act was essential to making out a case against him which would justify a verdict of guilty."

The Oregon Supreme Court in reversing the conviction of Hembree for murder and in ordering a new trial also referred to the principles laid down in "The People vs. Bennett," a case passed on by the New York Court of Appeals which is given in Vol. 49 of the New York Reports on pages 137-149. The principles involved in this decision have such an important bearing on both the Branson case and the Pender case that it is worth while to quote from it more fully than did the Oregon Supreme Court in the Hembree case.

Bennett had been tried for killing his wife but the evidence was wholly circumstantial. Moreover the manner of the homicide was so peculiar that the question of the motive became very important. * The court said: "Motive is an inducement, or that which leads or tempts the mind to indulge the criminal act. It is resorted to as a means of arriving at an ultimate fact, not for the purpose of explaining the reason of a criminal act which has been clearly proved, but from the important aid it may render in completing the proof of the commission of the act when it might otherwise remain in doubt. With motives in any speculative sense, neither the law nor the tribunal which administers it has any concern.

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* NOTE: In the Bennett case the motive appeared from the evidence to apply to the husband alone. In the Branson case in Oregon the court instructed the jury that there was no evidence tending to prove adulterous relations between Branson and Mrs. Booth, or in other words that no motive was established. In the Pender case the Supreme Court said the motive of the murderer was clear; that Mrs. Wehrman died rather than submit to dishonor, but there was nothing to show that Pender had any such motive. It might have been some other man.

"It is in cases of proof by circumstantial evidence that the motive often becomes not only material, but controlling, and in such cases the facts from which it may be inferred must be proved. It cannot be imagined any more than any other circumstance in the case."

The New York Court of Appeals also said in this case, "In determining a question of fact from circumstantial evidence, there are two general rules to be observed: 1. The hypothesis of delinquency or guilt should flow naturally from the facts proved, and be consistent with them all. 2. The evidence must be such as to exclude, to a moral certainty, every hypothesis but that of his guilt of the offense imputed to him; or, in other words, the facts proved must all be consistent with and point to his guilt not only, but they must be inconsistent with his innocence."

The Oregon Supreme Court in the Hembree case clearly upheld the principle established in many cases in other courts of appeal that the motive for a crime is of great importance where the evidence is wholly circumstantial, and also that the inferences as to a motive must depend upon facts legally proved. The Hembree decision on which hinged a man's life rested on this point, and the court in discussing the matter of inferences referred to Section 783, 784 and 785 of Bellinger and Cotton's Code and Statutes of Oregon where it is explicitly stated that "An inference must be founded on a fact legally proved."

On the general rule that one inference cannot be based on another and especially in view of the Oregon statute the court held as to the testimony concerning Hembree's going to his daughter's room under the known circumstances that it did not justify the inference that he was on terms of improper intimacy with his daughter, and that consequently the further inference that his alleged improper intimacy with his daughter was a motive for killing her and his wife was also a false inference and did not in connection with the circumstances of the death of the wife and daughter justify the verdict of guilty. The case was reversed and a new trial ordered.

Supposing that in the trial of William Branson for the murder of William Booth the case had been appealed to the Supreme Court on the ground that there was no direct evidence whatever of the killing of Booth by Branson and that there was no fact established from which a motive could be properly inferred for such alleged killing. The judge in the trial court charged the jury: "It is claimed in this case on the part of the prosecution

for the purpose of establishing a motive on the part of the defendants for the killing of William Booth that illicit or improper relations existed between the said defendants, William Branson and Anna Booth.

"You are instructed as a matter of law, that there is no evidence in this case establishing adulterous relations existing between the defendant Branson and Anna Booth."

Supposing in addition to the absence of any proven fact from which to deduce a motive the appeal to the Supreme Court had shown that the inference was offered to the jury that because Mrs. Booth was seen walking along a certain road and that perhaps Branson was riding a bicycle in the same direction coming along at a distance behind her, that Branson and Mrs. Booth were together in the brush near the spot where Booth was killed, and based on that inference the second inference was offered to the jury that Branson and Mrs. Booth were in a compromising situation, and based on the second inference the third inference was offered to the jury that Booth must have caught his wife and Branson in a compromising position and that then and because of these supposed happenings Branson shot and killed Booth.

What would the Supreme Court have done in view of the statute that "an inference must be founded on a fact legally proved," and in view of its remarkably clear exposition of the law both as to proving a motive and as to indirect evidence generally in the case of the State vs. Hembree?

Supposing that in the trial of John Arthur Pender for the murder of Mrs. Wehrman the case had been appealed to the Supreme Court on the grounds that the prosecution had established no fact whatever from which a motive for the murder could be deduced, and that the only evidence against Pender consisted of inferences based on other inferences. It is true that the prosecution introduced testimony to show that Mrs. Wehrman did not speak to Arthur Pender on a certain day, but three witnesses for the defense testified that Pender was elsewhere fighting fire on the day in question. It is also true that the Supreme Court offered the inference that Mrs. Wehrman did not speak to Mr. Pender because something might have happened between them which made it impossible for her to recognize him and that she died rather than submit to dishonor. This contains the implication of course that Mr. Pender insulted Mrs. Wehrman on some occasion. As a voluntary offering by the

Supreme Court this has a very curious sound when compared with the opinion given by the same court in the Hembree case—"evidence showing that a party charged with crime had a motive for committing it is not requisite though such proof is of great importance in cases depending on circumstantial evidence" and the quotation from Reports of New York to the effect that in such cases the motive "often becomes not only material but controlling, and in such cases the facts from which it may be inferred must be proved. It cannot be imagined any more than any other circumstances in the case."

It was imagined, however, in Mr. Pender's case, and it is fair to say that the court endorsed the powers of imagination gratuituously.

As to the circumstantial evidence against Mr. Pender in the matter of the killing, because the bullets found in the cabin were scratched it did not necessarily follow that they were fired out of the revolver belonging to Riley and Hassen; because some Colts revolver was used it did not follow that Riley and Hassen's revolver was stolen and used, or that Mr. Pender stole the revolver, or that the murder was committed Monday night because Riley and Hassen's revolver could not have been stolen before 6 P. M. Monday. No fact was legally established which made these inferences legitimate. Because a neighbor passing Mr. Pender's tent house Monday night did not notice a light in the tent it does not follow that Pender had gone to the Wehrman cabin. That is not a legitimate inference based on a fact. It was not a legitimate inference that Mr. Pender took the mail to the Wehrman cabin, even if he took it to the mail box from Scappoose, which is uncertain at least.

The inference that Mrs. Wehrman scratched Pender's face because there was foreign matter under her finger nails and some brown hairs in her dead fingers (Pender's hair is black) was not justified because she might have scratched some other man's face and neck and probably a man who had brown hair.

What would the Supreme Court have done if the Pender conviction had been appealed on these points in view of the law on indirect evidence, and in view of the court's decision in the Hembree case?

The Oregon law on indirect evidence is not peculiar to this state, as has been shown, and there are many decisions in other states based on the same principle that basic facts must be established before inferences can be drawn.

Supplement to Chapter XI.

(After Chapter XI. had been written I had the privilege of reading the following brief in the case of Mr. Pender which had been voluntarily prepared by Judge Martin L. Pipes. Judge Pipes is one of the leading lawyers of Oregon and has taken a great interest in the cases of Mr. Pender and William Branson and Mrs. Booth. I was so fortunate as to secure his consent to printing his brief in this account of these murder cases.—G. A. T.)

We submit that Pender is innocent and ought to be pardoned. We refer to the record of his cause on trial to show that.

A murder was committed. The circumstances proved show that probably on Sunday, September 3, or Monday, September 4, 1911, some person entered the cabin of Mistress Wehrman, attempted a criminal assault on her, struck her on the head with a hatchet, shot her three times in the head, killing her, and shot her little boy, six years old, three times in the head, killing him.

The evidence relied on to sustain the conviction of Pender for the murder consists of three principal circumstances.

1st: That some mail consisting of a paper in a wrapper was delivered to Pender by the postoffice at Scappoose on Labor Day.

2nd: That the pistol, a .38 calibre, with which the shooting was done, belonged to Riley and Hassen, who lived near Pender; that someone entered their cabin and took their pistol out of a trunk and that it was afterwards replaced in the trunk and that Pender knew that Riley and Hassen had a pistol.

3rd: That several days after the murder persons observed that Pender's face was scratched, as if by finger nails.

None of these facts were certainly proved, but for the purpose of the point now to be argued it will be assumed that these facts were established. If they were established they fall far short of proving that Pender was the guilty man. Aside from these facts there is no other evidence justifying even a suspicion against Pender.

Before examining the question we make the preliminary statement that under the law of Oregon contained in the code and construed by the Supreme Court, an inference cannot be based upon another inference to prove any fact in dispute, either in a civil or criminal case, but every conclusion must be founded upon a fact proved. In the case of State vs. Lem Woon (57 Oregon, 482 and 504) a pistol was admitted in evidence. The court said: "To admit the weapon under the proof accompanying it is ›n an inference from an inference and not a deduction

from an established fact," and this character of evidence is expressly excluded by Section 785, B. & C. Comp., which provides that the inference must be founded (1) on a fact legally proved and (2) on such a deduction from that fact as is warranted by a consideration of the usual propensities or passions of man, the particular propensities or passions of the person whose act is in question, the course of business or the course of nature. The same doctrine is applied in State vs. Hembree, 54 Oregon, 463, and in Lintner vs. Wiles, 70 Oregon, 350.

But it is not intended to argue a legal question. This rule is not only the law of the land but it is the law of the human mind. The question was not raised in this case in the Supreme Court or it must have resulted in a reversal. The consequences of a disregard of this rule are derived from human experience; it is an every-day rule used by all prudent persons in their own affairs and in their judgment of others. No prudent man would make an important decision in his own business upon a conjecture, and no just man would condemn another upon an inference that might or might not be true. With this rule of ordinary reasoning in mind, let us examine the evidence.

If Pender took the paper out of the postoffice on Labor Day there is a justifiable inference that he intended it should be delivered to Mrs. Wehrman. The evidence is undisputed that Pender lived five or six miles from Scappoose, that the Wehrmans lived about a mile further on, and that a box was kept at Pender's cabin where the neighbors brought the mail of the neighborhood and placed it for their convenience. Now, the fact relied on to prove Pender's guilt was that he went to the cabin. If he did not go to the cabin he was not the murderer. His presence at the cabin is the fact from which guilt is to be inferred, but that he went to the cabin at all is inferred only from the fact that he got the paper out of the postoffice. It is one inference drawn from another inference but an inference establishing innocence is the more reasonable inference, that is to say, that he did what he and his neighbors were accustomed to do—put the paper in the box at his home, so of the two inferences, to find him guilty, the jury would have to discard the innocent inference and adopt the guilty inference.

It is not proved, therefore, that Pender went to the cabin and if that is not proved the whole postoffice circumstances is out of the case.

It will not do to infer that Pender took the paper to the cabin

a mile beyond his place upon the theory or supposition that he had a criminal intent against Mrs. Wehrman, for that is to assume the fact in issue; it is reasoning in a circle. The criminal intent must be derived from a fact, not the fact inferred from a supposed criminal intent.

We have assumed that the delivery of the paper to Pender on Labor Day was proved, but it was not. The testimony was too uncertain about that to be the basis of any certain conclusion. To test the question, suppose the question whether Pender took the paper to the cabin were the only question in issue. Suppose a friendly wager about that stripped the question of all those suggestions and prejudices growing out of the crime and say whether it has been proved even in a case of small importance that it was Pender who got the paper or Pender who took the paper to the cabin, or whether in fact it was not delivered to the cabin by an innocent person on some other day before Labor Day. But there is still another inference intervening before the final conclusion. It is inferred that the person who delivered the paper at the cabin did the killing; no fact of time or circumstance justifies such a conclusion—the probabilities are all the other way. It was a possibility, of course, but it could just as well happen that a neighbor, Pender or another, passing by, left the paper and that the murderer afterwards made the visit and committed the murder.

The second principal fact relied on is the circumstance of the pistol. It was a 38-calibre; that is a common size and is not sufficient to identify of itself any particular pistol, but a particular pistol—the Riley-Hassen pistol is supposed to be identified as the fatal weapon. For the present, let us suppose the identification is complete; it was kept in a trunk; there is evidence that it was taken out of the trunk by somebody during the absence of the owners after 6 o'clock on Labor Day, but there is not the slightest evidence that Pender took it; there is no fact proved tending to show that he took it. The inference that he took it is based upon the fact that he knew that Riley and Hassen owned such a pistol because he had borrowed it and returned it sometime before. It is no more to be inferred that he took it than that anybody else with the same knowledge took it—no stronger evidence against Pender than against the owners of the pistol themselves. They had the pistol and could have taken it on Sunday or Monday and killed the woman with it, and that is the most that can be said as to Pender, that he could have done it.

It is not meant here that the evidence even looks towards those men and their friends would doubtless be indignant at the suggestion, and justifiably so. But is Pender in a different case merely because he is accused and they are not? Let us again suppose that Pender's getting the pistol was the only issue; that the owners had missed the pistol and had charged Pender with stealing it. Would any court or jury sustain a conviction of theft upon the proof that the accused knew where the pistol was and could have taken it? And yet the inference that he did take it is the foundation and the only foundation of the conclusion therefrom that Pender murdered the woman with that pistol. If you put the pistol out of the case and the mail circumstance out of the case you have put Pender out of the case.

We have assumed that it is completely proved that the Riley-Hassen pistol did the killing, but in our opinion the proof is not worthy of serious consideration; it is based mainly upon the testimony of Levings, as an expert, that the bullet was marked by a powder pit in the barrel of the pistol. Levings was the private detective who worked up the case. Admitting that some sleuths try to be honest and fair, it nevertheless is common knowledge that the strong prejudice they come to have in a case and their professional pride tincture their evidence, to say the least, either consciously or unconsciously. This is so when they testify about tangible and proved facts; it is more so when the evidence is an opinion only. Levings' opinion is offset by that of another expert to the contrary, but it is offset by the simplest facts of common knowledge. Here is a bullet that was shot into a woman's head and met with enough resistance in its course to be stopped by the flesh and bones when fired at a few inches distance. To say that a soft leaden bullet would show no marks or abrasion from being so stopped is against experience and to say that any human eye could from these marks distinguish a mark made by a powder pit in the barrel is to task credulity. It is also obvious that the pit would not mark the bullet unless its edges were raised, which is improbable. But it is not necessary to dwell on this feature, for as we have shown there is not a fact proved that tends to establish in the slightest degree that Pender got the pistol from the trunk.

The third circumstance is the marks on Pender's face. Assuming the existence of the marks, it is inferred from them, without any proof, that there was a struggle and that the woman scratched him; it is inferred that the marks were made by finger

nails, and all of this is based upon the previous inference built upon inferences that Pender was at the cabin, which we have shown is not a fact. That the marks were made by finger nails at all is a poor inference and disputed by Pender, who explains them by stating that he had a breaking out. The weakness of this testimony was appreciated because it was sought to be strengthened by evidence that the woman had foreign matter under her nails. It is wonderful that such evidence should be seriously offered; it would be remarkable if a housewife, at the end of a day of work, would not have foreign matter under her nails. The inference again is that the foreign matter was cuticle from Pender's face. It is difficult to be patient with such evidence where a man's life at first and now his life-long liberty, is at stake.

It is stating the case as strongly as it can be stated against Pender to say that Pender might have got the paper from the postoffice on Labor Day, he might have taken it past the box and his own house to the Wehrman cabin, he might have, on his way, stolen the Riley-Hassen pistol, he might have assaulted the woman, and upon her resistance he might have shot and killed her and her boy. But that case is purely conjectured and not proved by any evidence worthy of the name. But if the facts to which the testimony looks as to the mail and the pistol and the face marks were all true and clearly established, there is between these facts and the conclusion of guilt a series of inferences and conjecture, no one of which is certain, and a reasoning resulting in a belief of Pender's guilt is violative not only of the legal rule but of the rule of common sense. We shall be asked how it comes that a jury found the defendant guilty upon such flimsy pretext. A long experience enables this writer to give the reason: In theory of law the defendant must be convicted beyond a reasonable doubt and the fact of the indictment against him is not to be taken as evidence; in actual practice, the contrary is the case. The attitude of mind of juries and of everybody else is that when a person is accused of crime, the burden is on him to show that he is not guilty. The inquiry is to see if the facts in evidence against the accused are consistent with his guilt. If they are, juries, unless carefully instructed, are apt to assume his guilt, especially where no one else is suspected. But that is neither the legal nor the just way to look at the evidence; the true, safe and just process is to inquire if the facts in evidence are consistent also with innocence. If they are, the

accused is entitled before the law and before the court of human justice to go free. Pender was convicted because the jury accepted all of the inferences that were against him and rejected all that were in his favor and so finding, since he could have been guilty, they found him guilty. The rational way is to say that any innocent man might have got the paper out of the mail, might have known of the Riley-Hassen pistol, might have had scratches on his face, and still be innocent of this horrible crime, and that is exactly Pender's case. It is urged against this pardon, as we understand, that it is not the province of the executive to review the decision of the jury and of the Supreme Court, but the pardoning power has no limits except the conscience of the Governor; he is the last of the instrumentalities of the state to stand between innocence and unjust punishment; he is as much charged on his conscience with the duty of preventing injustice as the jury courts. It is true that where conflicting evidence has been passed on by juries and questions of law by courts that the executive is justified in refusing to disturb convictions upon mere review of the evidence. But where there has been a plain miscarriage of justice and a conviction upon conjecture and such insufficient proof as in this case, it is within the province and it is the duty of the Governor to say that the terrible injustice of a life-time shall not be suffered by a man who is innocent. We have read the decision of the Supreme Court in this case, where it will be assumed the evidence is recited as strongly as possible against Pender. The principal question before the court was whether there was any evidence of the slightest kind sufficient to be submitted to the jury. The court thought there was, but the court did not occupy the same position as the Governor; it did not and could not consider whether Pender was innocent or guilty but only whether error had been committed in the case. The Governor's province is to make such an examination, not only of the evidence in the case but extraneous evidence as to satisfy him whether justice requires a pardon. If it does, then a legal duty arises and it is his duty; the case is up to him. He is not bound by previous proceedings against his own conscience and judgment. That is what the pardoning power is for; indeed that power exists in all civilized countries because it is recognized that judicial procedure sometimes results in mistakes and it is the crowning virtue of the humane age that justice shall never be barred but that every man shall have somewhere and

all the time a chance for his life and his liberty when he has been unjustly convicted.

There is another consideration to which Pender is entitled. The crime in this case was unnatural and proves a debased nature. No normal man could commit it. The murderer in this case was a murderer at heart, a man of ungoverned passion and illogical mind. It is inconceivable that a man of thirty-two years who had never evinced the peculiar passions of this murderer could be guilty of the crime unless we suppose the accession of sudden insanity, and it is impossible to believe that this murder would be the only exhibition of his brutal nature. Pender has been under the eye of officers of the law for seven years; in all that time, as we understand the evidence to be, he has behaved himself and has won the confidence and respect of his guardians. It would be just as impossible for the murderer of Mrs. Wehrman to have successfully stood that test without a break as it would be for a leopard to change his spots.

We would not recommend a pardon of Pender if there were the least doubt in our minds of his innocence, but a careful examination of his whole case convinces us that the wrong man has been convicted and that the real murderer has escaped punishment.

MARTIN L. PIPES.

Chapter XII.

CHARACTERISTICS OF SADISM

One of the most shocking perversities of animal life is demonstrated when a mother kills her own young soon after birth. This is complete defeat of nature's plan of reproduction, and it is caused by emotional disturbance of the mother.

In the human family the most terrible perversion is shown when the male under the emotional stress of the sex impulse kills the female. The perversion in its milder forms is very common, and the emotional disturbance caused by the sex impulse includes an intense wish to suffer pain as well as to inflict pain. In the mentally unbalanced, the feeble-minded, the epileptic and in senile dementia this perversion shows the greatest violence and is often the cause of murder. This fact is not generally known, probably because the Anglo Saxon race has been taught for centuries to hide under the veil of silence everything touching reproduction.

The scientific name of this emotional disturbance, amounting sometimes to an aberration, is *algolagnia.* This describes a complex emotional state which for practical purposes has been divided and called by two different names. The desire to endure suffering is called masochism from the name of Sacher-Masoch, an Austrian novelist, who was a victim of the desire for punishment at the hands of his wife. He persuaded her, against her wish, to whip him with a whip having nails attached to it, and took great pleasure in his pain.

Rousseau was also a victim of this amazing perverted emotion (see his "Confessions") and there have been many cases known to physicians and alienists.

The other perversion is known as Sadism. Here the patient desires to inflict punishment such as whipping or strangling or causing the flowing of blood. This is the perversion which leads to murder in extreme cases. The murder of the Hill family in Portland in 1911, which is described in Chapters 14 and 15, was a case of Sadism.

The name comes from the Marquis de Sade who lived in France over a hundred years ago and whom Napoleon had confined in an asylum for the insane. But the perverse and wicked conduct which made Marquis de Sade infamous was told about three hundred years before de Sade was born in the horridly

fascinating tale of Bluebeard, who cut off the heads of numerous wives because of their curiosity and disobedience.

Bluebeard's life of wicked and bloody love must have had a thrilling appeal for men and women, witness its being worked into a clever drama and also made a part of a popular opera. The historic original was Chevalier Raoul, who was made a Marshal of France in 1429. He was a brave soldier, but cruel and wicked, and he delighted in corrupting young persons of both sexes and afterwards murdering them and using their blood in diabolical incantations.

There is a sure foundation in human nature for these tales, and that is the perverse desire to inflict pain upon a loved object, possibly from a wish to absolutely dominate the object of desire. Where the individual is mentally and nervously abnormal and unbalanced this desire to inflict pain becomes an aberration or a species of insanity. Such a person under the influence of sexual passion may commit murder by strangling or by stabbing or cutting with any sharp instrument. The effusion of the victim's blood seems to gratify this insane perversity which, since the time of the Marquis de Sade, has been called Sadism. This pathological occurrence either precedes or follows copulation, but occasionally it becomes a substitute for sexual indulgence. Lombroso discusses the case of Verzeni, who said in his last confession, "I had an unspeakable delight in strangling women," and referring to one of his victims by name, said, "I took great delight in drinking Matta's blood."

A number of years ago the civilized world was intensely aroused by the "Jack the ripper" or Whitechapel murders in London, which were the work of a Sadic. The perverted acts of this insane devil defy description.

In the last seven years there have been quite a number of sadistic murders in the United States. In the spring of 1911 the people of Portland were horrified by the strangling of little Barbara Holzman in Albina. In June of the same year the Hill family in Ardenwald were chopped to death with an axe by a Sadic. Four persons were killed.

In August of the same year, 1911, the Goble family of Rainier, Washington, were chopped to death with an axe. Two persons were killed.

Last August Lynn George J. Kelly confessed to killing a family of six persons at Valisca, Iowa, with an axe several years ago. The testimony at the trial showed the nature of the Sadic

in unmistakable fashion. Attorney General Havner of Des Moines sent me a copy of Kelly's confession, which, however, he repudiated at the trial. There is a great deal of interest in this confession to a student of sadistic murders, but the man was a minister and the crime was so overwhelmingly terrible that the jury of laymen could not believe that a minister would commit such a wholesale slaughter without an apparent motive.

In 1913 Dr. Knabe, a woman physician in Indianapolis had her throat cut in her own apartments by a Sadic.

In 1914 in Sacramento, California, a young girl was strangled by a Sadic.

In February, 1915, there was a sadistic murder at the county farm in Multnomah County where the victim's throat was cut.

It was about the same time that there was an attempted sadistic murder of a woman at La Grande, Oregon. The weapon used in this case was an axe, but the victim finally recovered.

This limited number of cases is enough to indicate the pathological character of sadistic murder. It is literally an insane perversion of the sex impulse and in these cases where it proceeds to the point of assassination it is accomplished by strangling, or cutting or chopping or stabbing. Kraft-Ebing, who is perhaps the oldest and best recognized authority on sadism, believes that the Sadic's motor centers are involved to a great degree in his aberration and that the unnecessary violence of the assassinations are thus accounted for. All of the authorities on the subject, Kraft-Ebing, Lombroso, Dr. Thoinot, August Forel, Havelock Ellis, Iwan Block, Dr. Healey and Dr. Jacoby, agree that the acts of a Sadic in his frenzy are those of an abnormal and perverted being who, like other insane persons, seems to be only partly conscious of what he is doing. Such are the characteristic qualities of Sadism, which in feeble-minded and unbalanced men has often led to murder.

There was no evidence given in the trial of Mr. Pender for the murder of Mrs. Wehrman and her child tending to indicate that he was a Sadic, but this trial was unusual both because of the lack of evidence and because of a highly inflamed public sentiment against the accused. Stories were widely circulated in Columbia County, especially, that Arthur Pender was a Sadic and that he boasted of mistreating Filipino girls and then killing them. Like the old tales of pirates and the stories of soldiers returned from foreign conquest these yarns were greedily listened to and swallowed, for Pender had been a soldier and had

fought in the United States army against the savages and barbarians in the Philippine Islands, and now a woman and child had been brutally murdered and Pender lived only a mile away.

According to the popular notions of circumstantial evidence that was very damaging. Nobody knows who started these stories of Mr. Pender's wild doings in the Philippine Islands but they were put in circulation by somebody who wanted to explain the murder of Mrs. Wehrman. Even the prosecuting attorney, Mr. Tongue, did not hesitate to build on this foundation. He has several times told that Pender's wife in seeking a divorce accused Pender of threatening her with a knife. However, the divorce was obtained by default, and so no evidence was given about the "cruel and inhuman" treatment which is so commonly charged in divorce proceedings. Without proof of sadistic tendencies in the murder of Mrs. Wehrman and her child this theory falls to the ground. Pressing the finger on a revolver trigger and causing an explosion of gunpowder caused Mrs. Wehrman's death, while sadistic murder since the days of Bluebeard has involved strangling or cutting or stabbing or chopping the victim to death as illustrated in the cases referred to in this chapter.

Chapter XIII

PERSONAL CHARACTER OF JOHN ARTHUR PENDER

It's always a matter of great interest to know what kind of a person the man is who has been accused of crime. The general public is curious, and the prosecuting officers and the court and jailers go very far in coming to a conclusion about the prisoner's guilt or innocence from their personal impressions of the man. This is especially true where there is nothing but circumstantial evidence to connect him with the crime, for everyone knows that circumstantial evidence is apt to be a delusion and a snare in the every day affairs of life. Of course it arouses suspicion, and where a terrible crime has been committed it is worth while to test the suspicions out to see if they amount to proof.

Personal impressions from a close acquaintance give us all our best means of judging character unless there is direct evidence to the contrary That is why a prisoner's lawyers always make up their minds before they finish a case whether the accused person is guilty or innocent. Criminal lawyers say that when they are defending a guilty man he will always give himself away in some trifling detail even though he protest his innocence. Guilt is always trying to excuse or explain, or throw dust on the trail, and it reasons from guilty knowledge. That attitude alone is enough to satisfy a prisoner's lawyer.

On the other hand an innocent person accused of crime does not do the little self-revealing things which the guilty man does. He may be unable to prove his innocence but the most intimate acquaintance with him does not suggest guilt.

In the case of Arthur Pender all of his acquaintances and friends believe him to be an innocent man. His lawyers have always been satisfied that he is innocent. Arthur Pender's mother and sisters, in the many little indefinable ways that a man's family always indicate their feelings, show beyond a doubt that he has been a good son and a kind-hearted brother.

Mr. Pender is just 40 years old and has spent nearly eight years in prison. He served in the Spanish-American war, and Mr. H. E. Coolidge, now cashier in the La Grande, Ore., National Bank, says of him: "I knew Pender as a soldier in the Philippines in 1898-99. He was a member of the same battery and one of the gun detachment of which I had charge as chief of section. He was a splendid soldier and of such a character and

disposition that he held the confidence and respect of his comrades at all times. His unselfish devotion to duty and manly conduct marked him as the best type of American soldier. During all my intimate association with this man, I never knew of a single act of his that would reflect in any way upon his record as a soldier or his character as a moral and upright American citizen."

The Captain of Pender's company also speaks of him in the highest terms both as a man and as a soldier who did not hesitate to risk his life again and again in the Philippines.

A prosecutor in Utah and later in the United States Attorney General's office refers to Mr. Pender as a normal man of good instincts whom he had known personally for many years, and he voluntarily pointed out that such men very rarely committed crimes.

My own impressions of him are that he is an amiable and faithful fellow with a kind heart for the children and women folks of his family. He is not brilliant but is an intelligent man and one who inspires confidence, and he is about as far removed from the criminal type as it is easy to imagine. Even the prosecuting attorney, who is notorious as a zealous prosecutor, has said of Mr. Pender in my hearing, "I have a doubt of his guilt."

Governor Withycombe has said to me on different occasions and to others also, that he believed Pender to be innocent, but that he did not feel justified in pardoning him. He said that people in Columbia County feel very bitter about Pender. My own conviction is that they would feel more bitter about Sierks —father and son—if they knew the facts.

There has always been a grave question in the minds of thoughtful people throughout the state as to Mr. Pender's guilt. To people outside of the community, and to some of the intelligent citizens of Columbia County, there did not appear to be any evidence which necessarily connected Pender with the crime. Mrs. Wehrman and her child were most brutally—nay, fiendishly—murdered by some being who showed no more restraint than ape. Somebody must have done it, but there was no evidence to show that Pender was even away from his tent house on the night the prosecution claimed that the murder was committed (and as a matter of fact nobody knows whether the murder was committed on Sunday or Monday). There was certain negative evidence that Pender did not have a light in his tent Monday evening, September 4, but the witness testified to this

about the first of June, 1912, and again in 1913. This was all the prosecution had to go on.

THE FINAL OUTCOME

Eventually it must be recognized that Mr. Pender is innocent and that he should be released from the penitentiary. My own personal interest in Pender is simply that of the President of the Oregon Prisoners' Aid Society, a body of men and women who have taken a very active part for many years in securing better criminal laws and more humane prison administration. My predecessor in office was Mr. Ben Selling, now one of the directors of the Society.

It is one of the recognized duties of the Society to bring to public attention miscarriages of justice, not only for the sake of the prisoner, but especially to secure in the future a better administration of the criminal law throughout the state. The cases of John Arthur Pender and of William Branson and Mrs. William Booth are noticeable only because they have aroused interest through the conviction of these persons for wholly unprovoked murders, and because these convictions were secured on circumstantial evidence of a very inconclusive character. It is unnecessary to point out the dangers to the liberties of any citizen if such unjustified convictions should stand after the actual criminals have been discovered.

In the case of Mr. Pender, many highly intelligent and responsible citizens of the state are satisfied of his innocence as the result of this investigation and report, and they have, after studying the report, signed their names to the following statement in order that the public may know the facts.

This appeal to the people of Oregon to petition the chief executive to grant a full pardon to John Arthur Pender is made after mature consideration by each member of the committee of the report of this investigation and after receiving the advice and counsel of former City Attorney Frank S. Grant.

Mr. Grant says: "I have examined the record of the case of the State of Oregon against John A. Pender, convicted of the murder of Mrs. Frank Wehrman. Based upon the examination of the record, it is my opinion that John A. Pender never should have been convicted of this crime."

Chapter XIV

THE SADISTIC MURDER OF THE HILL FAMILY

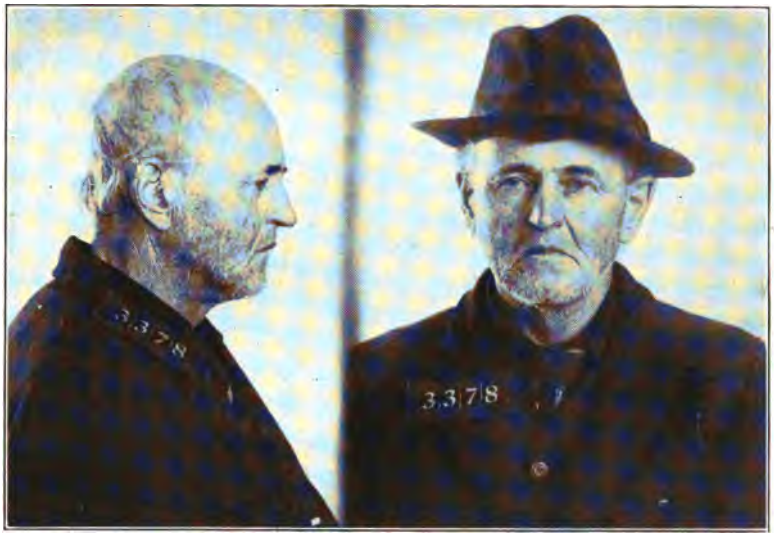
On the southern boundary of the City of Portland is a suburb known as Ardenwald, which lies partly in each of two counties, Multnomah and Clackamas. There winds through this suburb a stream known as Johnson's Creek, which in its setting of trees and bushes is the delight of small boys and the hoboes who like to have more or less permanent camps in the neighborhood of a city. On the Clackamas side of Ardenwald there is a grove of perhaps 40 acres of first growth timber containing many huge fir trees. The Southern Pacific Railroad running south from Portland marks the western boundary of this grove, which is known as Scott's Woods, while at the north end and on the east side is the town of Ardenwald. There are comparatively few houses on the east of Scott's Woods and here it was, in the spring of 1911, that William Hill built a cottage for his family close to some of the old residences near the south end of the woods. Mr. Hill was a comparatively young man of 32 years. He had been married but a short time to a Mrs. Rintoul, a widow of about his own age. Mrs. Rintoul had two children, Philip Rintoul, aged 8 years, and Dorothy, aged 6 years

Mr. and Mrs. Hill with their two children moved into the cottage about the first of May, 1911, before it was completed. The Hills had two near neighbors on the south, the Matthews family and the Harvey family, both within a few hundred feet. The houses all faced the road running along the east side of Scott's Woods, and the neighbors all used this road in walking to the Ardenwald station on the suburban electric line to Portland.

On June 8, 1911, in the afternoon, Mrs. Hill went to Portland and saw her father and brother in their law office. Mrs. Hill was apparently much disturbed about something, but on account of some interruptions neither her father nor brother learned what had happened.

They never saw her again alive, for some time during that night Mr. and Mrs. Hill and their two children, Philip and Dorothy, were chopped to death with an axe taken from the porch of Joe Delk's house. Mr. Delk lived with his family one-fourth of a mile to the north of the Hills, and he had sharpened his axe that evening and left it on the step of a side porch of his house.

Some sexual perverts of the type known as Sadics had either



Ed. Ramsey, alias Frederick Alexander, alias Alexander Rainford, alias William Flynn, and known to many small boys as "Nutty Ed.," who was accused by William Riggin of being his companion in killing the Hill family in Ardenwald on June 8, 1911. Ramsey is a high-grade moron, and has lived in the jungles for years. It is known that Riggin and Ramsey were living together in the jungle in 1911 when this sadistic murder of the Hill family was committed.

taken the axe, or had it brought to them by a companion, and they had then used it in wiping out a whole family as a preliminary to a pathological sexual orgy.

The members of the Hill family were murdered in their beds and the bloody axe was left standing at the foot of the cot on which lay the body of little Dorothy Rintoul. The axe was positively identified by the owner who lived about one-fourth of a mile towards the city from the Hill home. Mrs. Matthews discovered the murder at about 8 o'clock A. M. on the 9th of June. The windows had been covered with garments and pieces of cloth which indicated that the murderers had spent some time in the house and that they had a light.

The surgeon at the coroner's inquest testified in part as follows:

Question. "What wounds did you find on Mr. Hill?"

A. "His face and head were completely chopped to pieces on the right side; especially on the right side above the eye, deforming whole face."

Q. "What wounds did you find on Mrs. Hill?"

A. "There was a wound starting in the middle of the eyebrow above the right eye, extending clear across; the whole skull was fractured. There was a cut on left side of nose down into the bone, breaking out front upper teeth. Her lower jaw was broken on left side."

Q. "What wounds did you find on Dorothy Hintoul?"

A. "There was cut on angle of right eye, extending up for three inches, fracturing skull, going through it. Cuts were done with sharp edge of axe. There was a cut two inches above left eye extending three inches, went through skull; done with sharp edge of axe, a blow on the back of the head completely smashed skull."

Q. "What wounds did you find on Philip Rintoul?"

A. "Whole skull battered in; several bruises along side of right eye and forehead. Occipital bone in skull only bone not broken. Right arm bloody; shows bloody finger prints on arm. Head all mashed over to left side. Looks like wound was caused by side of axe."

Q. "Was there evidence that someone had washed up before leaving house?"

A. "Yes."

Q. "Could you tell how long the bodies had been dead?"

A. "No; it's hard to say."

Q. "Any bloody finger prints on bodies?"
A. "Yes."
Q. "Other than on the boy's arm?"
A. "Yes, several."

The testimony of the surgeon also showed that the bodies of Mrs. Hill and her -6year-old daughter, Dorothy, had been assaulted in outrageous fashion. The murderers left conclusive proof that they were not only Sadics, or insane sexual perverts, who, like the Whitechapel murderers in London years ago, delighted in the effusion of the blood of their victims, but were the lineal degenerate descendants of the vicious inhabitants of ancient Sodom.

However, there was no clue whatever as to the Sadics who had destroyed this whole family and who so shockingly mutilated their bodies. Several thousand dollars in rewards were offered by the State and by private individuals for the detection of the murderers, but aside from the arrest of a neighbor of the Hills, whom the grand jury refused to indict for the murder, very little progress was made. At the same time public interest was intense and has continued in great measure through the years that have elapsed since the murder. All the elements of the crime combined to stir the community. Public sympathy in a murder of this sort reflects the personal element of fear of meeting a similar fate, which in this case combined the horror of butchery with that of indecent assault. To aggravate the terror and resentment caused by this ignominous destruction of a family was added the element of mystery which was as complete as if some unknown and invisible animals had suddenly demonstrated their presence by the mysterious destruction of the lives of a whole family of reputable citizens.

Usually in cases of mysterious murder the motive is not apparent and remains more or less a matter of speculation, but in the murder of the Hill family the motive was established absolutely by circumstantial evidence. There remains then the problem of discovering who were the perverted and abnormal men who entered the Hill home that night in June. This is another point to be remembered, for abnormality of such a marked character is exceedingly rare. The verdict of students of sexual pathology is unanimous in declaring that Sadics of this extreme type are afflicted with defective nervous systems or defective brains or both.*

* NOTE. Dr. Jacoby in his recent volume, "The Unsound

That is not only the conclusion from numerous investigations by specialists, but it is also the verdict of common sense, because only an abnormal being could be guilty of such outrageously abnormal conduct. This narrows the field of investigation to a search for the abnormal men who were in the immediate vicinity of the home of the Hills on the night of the murder. It is possible of course that the perverted murderers were birds of passage and were in the vicinity only a few hours, but the probabilities are very strong that they were thoroughly familiar with the neighborhood and were at least transient residents.

Quite a number of defective men were picked up by sheriffs and questioned as to their whereabouts at the time of the murder and then were released. One of the number was a man of 55 years of age by the name of Ed Ramsey. He claimed that his true name was Frederick Alexander. He was what is known as a "jungle" man, and while he worked at intervals, his favorite occupation was loafing in the woods in the suburbs of Portland and inducing young children to go to his camp. He was generally regarded as a thief and people were afraid of him as his actions were peculiar. Ramsey was picked up on June 18, ten days after the murder, as he was crossing the Willamette River on a raft. It was well known to the authorities that he had been living in the strip of heavy timber between the home of the Hill family and the Southern Pacific Railroad. Upon his arrest he said that he was a San Francisco earthquake refugee and that his memory was poor and that he could not tell where he was the night of the murder of the Hills.

When Ramsey was picked up, ten days after the murder, he was barefoot and unkempt and had injured one leg by burning it, so he claimed.

On June 19, 1911, an insanity complaint was filed against Ramsey and he was committed to the asylum at Salem. Commitment says he was morose and had hallucinations and illusions of sight. His description says he was 5 feet 7 inches tall, weighed 145 pounds, had blue eyes and gray hair and was some-

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Mind and the Law," says: "As a psychopathological manifestation Sadism is dependent pre-eminently, at any rate in its most pronounced form, upon congenital or acquired feeble mindedness, upon alcoholism, hysteria, epileptic psychoses or senile dementia."

what bald. He gave his age as 55 years and said he was born in Canada.

The State Hospital notes say of Ramsey that he "does not appear to be insane, no delusions or hallucinations discoverable, is coherent, reasons sanely and appears normal, works well and is a quiet, nice patient." On this hospital record Ramsey was discharged on July 25, 1911, about a month after he was committed.

Ramsey has continued to live on the outskirts of Portland with occasional visits elsewhere.

I have talked with a number of boys, at least half a dozen whom Ramsey has mistreated sexually, and several of them signed sworn statements as to details. These statements I turned over to the district attorney of Clackamas County in the fall of 1915 when Ramsey was arrested on a vagrancy complaint signed by L. G. McKenny, who first brought the matter of Ramsey's assaults on children to my attention and also the further fact that Ramsey was living in the neighborhood of the Hills at the time of the murder. Ramsey's reputation in the matter of his mistreatment of children was notorious and also his habits as a jungle man and suspected thief.

Deputy Sheriff August Scholtz, of Multnomah County, gave me his sworn statement about his knowledge of Ramsey's bad habits where children were concerned, and of his various attempts to get evidence to convict Ramsey as a thief.

Mr. L. G. McKenny suspected Ramsey of being implicated in the murder of the Hill family because of his presence in the community and because of his peculiar and vicious sexual assaults on small boys, which corresponded with the assaults made on the bodies of Mrs. Hill and her little daughter the night of the murder.

This attracted my interest and attention because of the well-recognized connection between sexual assaults on children and the perversion known as Sadism. The murder of the Hills was one of the most clearly demonstrated cases of sadistic murder ever recorded. Dr. Albert Moll, the great Euorpean authority, in his book, "The Sexual Life of the Child," says on page 234, "Sexual inclinations towards children are especially apt to be associated with sadistic acts."

Conclusive evidence of Ramsey's presence in the neighborhood of the Hill home on the evening of the murder was discovered by L. G. McKenny, the detective whom I have men-

tioned. A Mr. and Mrs. Thomas B. Vale, a reputable couple who lived at Berkely, a short distance from Ardenwald station, took a walk after supper on the evening of June 8, the night of the murder, in the general direction of Ardenwald, and they met a jungle man with his gunny sack and tomato can who was muttering threats against some woman or girl. Here is Mrs. Vale's statement:

"State of Oregon, County of Yamhill—ss.

I, Nancy Vale, being first duly sworn, depose and say that I am the wife of Thomas B. Vale, and that at present I am a resident of McMinnville, Yamhill County, Oregon, and that in June of 1911, I was living with my husband in Berkely, Multnomah County, Oregon; that on the evening of the murder of the Hill family in Ardenwald, immediately after supper, I walked with my husband towards the picnic grounds on Johnson Creek at some time between 6 and 7 o'clock P. M., and that before we reached the creek we met and passed a crazy looking man carrying a small paper sack and a tomato can. He was horribly dirty and tough looking and was hanging his head forward and muttering to himself as he passed on. After he had got by us I heard him say, 'Damn her, I'll —— her yet." I told my husband what the man said and I felt so horrified at his appearance and his threat against some woman that I said I wanted to go back home and we did go home. This man was about 50 years old and medium height and fairly heavy set and looked as if he had not been shaved for a month. I think I should know this man, though it is four years since this happened, because he made such a strong impression upon me because of his filthy and wild appearance and his threat against some woman, unless of course he has changed very much in appearance. (Signed) NANCY VALE."

Mr. Vale's statement corresponds with his wife's. Mr. Vale was so much impressed by this occurrence when he learned the next morning that the Hills had been murdered and Mrs. Hill and her little daughter assaulted that he reported it to a police officer, but probably it never got any farther than the officer whom Mr. Vale talked to.

It seems that on the afternoon before her death Mrs. Hill called on her father and brother in their office in Portland and that she was disturbed and excited by something that had happened. Mr. Tom Cowing, a brother of Mrs. Hill's, will testify

that this is true. The place where the Vales met Ramsey is not far from the road Mrs. Hill went and came on the afternoon of her trip to Portland, and it is possible, though not certain, that Ramsey accosted her that afternoon or evening.

After Ramsey was arrested in 1915 on a vagrancy charge, I took Mr. and Mrs. Vale to the Clackamas jail to see if they could identify Ramsey. They both identified him positively as the man they saw near Johnson Creek the evening of the Hill murder and who uttered threats against some woman.

These facts concerning Ed Ramsey, including his presence in the neighborhood of the Hill home the evening of the murder, and his character in the matter of his treatment of children, were presented to the grand jury of Clackamas County in the fall of 1915, but were evidently regarded as absurd by the district attorney and the grand jury.

In a private conversation with the district attorney a short time before the grand jury met he assured me that "there would be something doing if I were trying to railroad a harmless old man to the penitentiary." He said that he knew where I had been, and named the office of the lawyer who was attorney for the man suspected of this murder, the intimation being that I had been hired to divert suspicion from this man to a poor, harmless half-wit.

The district attorney had previously hired a private detective for the sum of $2000 to get the evidence in this murder case, and this same summer this detective had collected his $2000 by a suit in court, as the county had refused to pay the amount because no conclusive evidence had been secured. The detective believed that this neighbor of Hills who had been arrested, but whom the grand jury refused to indict, was the guilty man.

The district attorney intimated that the boys who had made detailed statements under oath of Ramsey's assaulting them sexually were irresponsible, and asked if one of them had not been in the reform school.

Ed Ramsey was released after this grand jury hearing and the matter seemed closed.

WILLIAM RIGGIN (front view), who, at the time he confessed to the murder of William Booth on October 8, 1915, also confessed to his part in the sadistic murder of the Hill family on June 8, 1911, and who said that Charles Brown and William Flynn were his accomplices.

Chapter XV

WILLIAM RIGGIN'S CONFESSION

In May of 1917, when Bill Riggin confessed to shooting and killing William Booth at Willamina on October 8, 1915, he made a statement about taking part in the Hill murder on June 8, 1911. The statement follows:

Office of Sheriff of Washington

J. C. Applegate

Hillsboro, Ore.

State of Oregon, County of Washington—ss.

Under oath, I, William Riggin, do make this my free and voluntary statement, to-wit:

In 1911 I was standing on the street, right by the bridge at Oregon City, when this Mexican named Brown and William Flynn came up to me and said: "Will, we know where we can get some money." I said, "All right, we'll go get it." This was about half-past-four in the afternoon when they came to me. Brown gave me a .38 automatic revolver. We went across the Willamette River, across the bridge, and set down near where an old store stood, and talked. We talked there, I guess for about twenty minutes. Brown said, "You stay out, Bill, and be a spotter in case anything turns up, and give a signal by firing a shot, and we'll do the rest." Brown said: "After we go in and come out again, you beat it, and we will meet again tomorrow night." The meeting place was to be down below the Gladstone Park. We then walked over to where the Hill family lived and got there about half-past-nine at night. The lights were still burning in the house. They had not gone to bed. The front door of the house stood out. They went to bed at about half-past-nine. Brown told me to get back quite a ways so that I could see good, and if anyone came, to fire the shot. I went back from the house, and stayed about forty yards from the house. I was to shoot with a gun down close to the ground, so that it would not pop loud. They waited until about 11 o'clock before they went into the house. Then one went in through the window, and the other one went in through the door. Brown took the axe from the woodshed. Flynn went in the window and Brown went in the door. They were in the house for about half-hour. I heard the children scream. I heard a noise that

sounded like chopping, and heard the screams. They came out through the back door, and went one way, and I went the other. I went down to Gladstone Park and laid around until they came. They came in about daylight. They had $1400, part in gold and part in silver. I don't remember whether there was any paper money or not. I got $100.00 for my part. They divided the money. They went one way and I went the other. I haven't seen them since.

(Signed) WILLIAM RIGGIN.

State of Oregon, County of Washington—ss.

I, William Riggin, being first duly sworn, depose and say that the foregoing statement is true, as I verily believe, so help me God.

(Signed) WILLIAM RIGGIN.

Subscribed and sworn to before me this 18th day of May, 1917.

(Signed) H. A. KURATH,
County Clerk, Washington County, Oregon.

Late in July, 1917, I saw William Riggin at Willamina, where he located the spot where Booth's body was found and described the position of the body with absolute accuracy, according to Mr. Sherwin, foreman of the coroner's jury.

In conversation with Riggin, I referred to Ed Ramsey without mentioning the Hill murder. Riggin was surprised that I knew anything of Ramsey, and when I told him some of Ramsey's peculiarities, he was evidently very much surprised that I should know anything about him.

At this time I had not seen Riggin's statement about the Hill murder but had heard of it. Riggin exclaimed with an oath that he might as well tell the whole story of the murder of the Hills and the next day he gave a statement which follows:

State of Oregon, County of Marion—ss.

I, William Riggin, first being duly sworn, depose and say in regard to the Hill murder, that I had been living around with Ed Ramsey about six or eight months before the Hill family was killed. I had been at work for the Fitzgerald Brothers at the Blue Ridge farm and Ramsey came there and saw me. I had seen him several times before this, but it was after I left the farm that I lived with him in different places in the woods and around the country to the south of Portland and in Yamhill County. On the afternoon before the murder I was in Oregon

City and sat on the bridge for about an hour, and I went to Milwaukie in a rig that evening.

Ramsey and I made a plan about 9 o'clock to go to the Hill house. I met Ramsey down close to Ardenwald. I went and got an axe from a fellow's house on the road to Ardenwald. I think I could go and pick out the place. I know that I went up some steps to get the axe, but I don't remember how many steps there were. It was a sharp axe. We went together to the house about midnight. I saw Ramsey go in. I was on the lookout on the outside and had my orders to shoot close to the ground if anything happened. I never seen her. I didn't go into the house. I do not remember what time Ramsey came out but think it was about 3:30 A. M. No, I was not in there with him. That is one reason I didn't hang around Oregon City afterwards. I saw him afterwards. He said: "I got the best of the people." He didn't tell me what he did to the woman or the little girl. He gave me $100.00. I do not know where he got the money. His plans were to get money—and hate. I know of many things Ed did but the police were not smooth enough to get him. After this was over that night we went down by Gladstone Park and stayed around the shack in Scott's Woods. The next morning Ramsey told me about his meeting Mrs. Hill on the road to Ardenwald the afternoon before, and about his asking her for —— and about her running away from him.

After this affair I lived with Ramsey off and on for several years, though I did not see him for some time after the killing of the Hill family. My father asked me several times who this strange man was that I was monkeying around with and wanted me to leave him.

I thought about the Hill family a good deal and it troubled me so that I did not go to that neighborhood. My brother John asked me at one time what it was that troubled me, and at another time my father wanted to know what it was that made me so troubled. I told him it wasn't worth while for him to know everything. In May of this year when I was at Hillsboro I told my father for the first time about my connection with the Hill matter.

(Signed) WILLIAM RIGGIN.

Subscribed and sworn to before me this 21st day of July, 1917.

(Signed) FRANK DAVEY,
Notary Public for Oregon.

The discrepancies in the two statements are very interesting,

especially as they are the wholly voluntary statements of a high-grade defective, no attempt being made to lead him.

In the confession of May, 1917, Riggin told of two men, Brown and Flynn, proposing to rob the Hill family and of their asking him to be outside guard. The men met in Oregon City, and Riggin said they walked to the site of the Hill home and got there about 9:30 P. M. In Riggin's statement in July, 1917, he said he rode from Oregon City in a rig. In his statement to Attorney General Brown in August, 1918, Riggin said the other men had a team and he had a saddle horse.

In the May, 1917, statement Riggin said the front door of the Hill cabin "stood out." It was typed "open" and changed afterwards. It is fair to assume that he meant that the door would not open, judging from the change of wording and his statement in August and later that they went in at the back door. It is true that the front door was fastened shut and could not be opened and that the murderers did use the back door.

In his first statement Riggin said Brown took the axe from the woodshed. In his second statement Riggin said he got the axe himself and thought he could take me to the house where he got it. He did this a year later and showed where the axe was taken, and curiously, in view of the previous account, he was entirely accurate in showing where the axe was secured, and during this year he was in the penitentiary and without any opportunity of getting the information.

In his first statement Riggin said Brown and Flynn were his accomplices in the murder. At the time I first talked to Riggin in July, 1917, I had not seen his confession of May, 1917, and did not know the names. I asked some questions about Ramsey and he was very much surprised that I knew him, and he finally admitted that he knew Ramsey and was living with him in the early summer of 1911, and said that his father and brothers knew who Ramsey was. In telling me the story of the murder he placed all the blame on Ramsey and did not mention Brown. In August, 1918, Riggin told Attorney General Brown, Warden Murphy, the stenographer and I being present, that Ramsey sometimes went by the name of William Flynn. He also said that Brown was the name that Charlie Daniels went by and that Daniels was an old friend of his and that they were in the reform school together. He said he kept Daniels out of it as much as he could because of their friendship. Upon making inquiries I found that Charlie Daniels was in the reform school

from the time he was 11 years old until he was 21 and that Riggin was in the reform school several years during this period. Riggin's father and two brothers knew of the friendship between Riggin and Daniels. Daniels had a very bad record in the reform school and the school records showed that his mentality was poor and his habits depraved. One of Riggin's brothers said that Daniels, alias Brown, like Ramsey, was known as a "kid" man, or one with a sexual preference for children.

After Riggin's statement to me in July, 1917, I asked him where Ramsey was and he told me that some weeks previous he saw Ramsey in Tillamook when Warden Murphy took him to find the revolver he said he killed Booth with, and that Ramsey came to the restaurant where they were eating supper and attempted to talk to him. Warden Murphy told me that a man did come into the restaurant and attempt to talk to Riggin but that he sent him away. Later Riggin said that this was Daniels and not Ramsey.

In August of 1918 Ramsey was arrested on the charge of vagrancy and was sentenced to three months in the county jail. I took Riggin's father and brother on one occasion, and another brother later to the jail, and all three unhesitatingly picked Ramsey out of a group of prisoners as William Riggin's friend and associate at the time the Hill murder was committed. They were absolutely positive in their identification of Ramsey, and two of them had given me a fairly good description of Ramsey the year before, so this question was settled that Ramsey (by whatever name) and Riggin were living in the jungle as hoboes at the time the Hill murder was committed.

A few days before this I arranged with Governor Withycombe to have Warden Murphy bring Riggin to the Multnomah county jail in order that he and Ramsey might be questioned about the Hill murder. Attorney General Brown and First Assistant District Attorney John Collier of Multnomah County were present. Riggin told the story of the murder substantially as he had told it before, but when Ramsey was brought into the room he said, "This was not Ramsey"; that Ramsey was a tall man with black hair. Ramsey denied ever having seen Riggin, but he added his comment about the tall man who was in the vicinity of the Hill home at the time of the murder. Ramsey said there was such a man in the neighborhood of the Hills at the time of the murder and that he ought to be looked up. Riggin was much disturbed at Ramsey's presence and trembled so noticeably as to

attract attention. John Riggin, Bill's brother, said that Bill told him Ramsey had threatened to kill him if he did not do as he said.

On this same day Attorney General Brown, Mr. Collier, William Riggin and I went to the neighborhood of the murder and Riggin gave directions as to stopping at the different points. Near Ardenwald station Riggin pointed out the spot where he and Ramsey met. Then he showed us just where he got the axe from a neighbor's house. This was accurate. Then he showed the former site of the Hill home and was entirely accurate in this, though the house was torn down within a year or two of the murder and no sign remains of its location. There is now a plowed field where the house stood. Riggin described vividly what happened the night of the murder and pointed out where he and Ramsey crossed the road afterwards and followed a cow trail back to near the spot where he got the axe, and where their team was hitched. A number of days after the murder bloodhounds followed a trail from the Hill house along this cow path and lost it at the spot where a bloody cloth was found. This was about where Riggin said the team was standing.

Then Riggin directed us to where he and Ramsey had a camp and where he said Ramsey buried his trousers, which were bloody.

Within a couple of weeks I took Riggin's father to Salem, and we had a lengthy interview with Riggin in Attorney General Brown's office, Warden Murphy, William Riggin, Riggin's father, the Attorney General and I being present. Riggin admitted to his father and then to all of us that he recognized Ramsey when he saw him in Portland but was afraid of him and so said he was not Ramsey. He also admitted that Charlie Daniels, alias Brown, was with them on the night of the murder, and said that Daniels had been a good friend of his and that he did not like to tell about his part in the murder.

Later Riggin saw Ramsey in the Multnomah jail and said that Ramsey was the man. Ramsey denied ever having seen Riggin but the look in his eyes when Riggin came into the room together with the positive identification of Ramsey by Riggin's father and Riggin's two brothers was conclusive that Ramsey and Riggin knew each other.

At this time Riggin admitted for the first time that he was inside the Hill house the night of the murder.

Riggin insisted in his story to Attorney General Brown that he was paid $100 for watching outside and the motive of the

murder was robbery. This is palpably untrue. Riggin said he had a saddle horse and that the Fitzgerald family at Blue Lake farm would corroborate this. I learned that Riggin worked for the Fitzgeralds at intervals for a number of years as he said he did, but they knew nothing of his saddle horse. Riggin told the Attorney General that it was a light night when the murder was committed. This is true as there was a brilliant moon. Riggin was badly confused in telling of the time the men spent inside the house, but in common with defectives generally he has no idea of estimating time. He shows this clearly, and his father says he never could tell about the passage of time.

Riggin told of his association with Daniels after the murder and of some of their illegal operations together. Daniels had a rendezvous in the coast mountains and Riggin admitted that Daniels was the man who tried to talk to him when he was in Tillamook with Warden Murphy. This confusing Daniels with Ramsey, which Riggin said he did to protect Daniels, together with the aliases of the two men, has made the story hard to unravel. However, we know that Riggin and Daniels had been friends for years, and Riggin and Ramsey lived together in the jungle at the time of the murder, and that Riggin has described the murder and given details which are true.

Before analyzing the confession there are two points to be remembered and held in mind constantly:

First, it makes no difference whether Riggin is weak-minded or crazy or normal if his story is corroborated by the facts. A fact does not cease to be a fact, if corroborated, because a crazy man or a weak-minded man relates it, though there is apt to be confusion and exaggerations and false statements about details if a weak-minded man tells a story of crime.

Second, the question of Riggin's confession being an invention must be weighed carefully. If it was invented, was it invented six and seven years after the murder, or was it invented at the time and concealed six years and then partially told and fully told a year later? Could it have been invented six years after?

ANALYSIS OF THE CONFESSION

In William Riggin's confession of the Hill murder, if we eliminate his statements which are obviously untrue and then consider the facts which have been corroborated, we shall be in a position to decide whether the confession is an invention to obtain notoriety, or whether it is the truth as to the central facts

but colored by the vanity of a defective man. There is no middle ground. Either Riggin was implicated in this murder or the story is palpably absurd. Riggin has been in prison since October, 1915, and since he confessed he has stood by his story, though some of the details are false. Nobody had suspected him of the crime and there is nobody in the prison who would derive any advantage from Riggin making this confession.

Riggin says that the motive for this murder was robbery. This is untrue and absurd as well. The treatment of the bodies settles that as well as the known poverty of the Hills.

Riggin made conflicting statements about the time the murderers were in the house, but he cannot estimate the passage of time. Few defectives can, and some normal people are lacking in that capacity.

Riggin told different stories about walking, riding in a rig and riding horseback to the scene of the murder. This detail is not vital either way, but it tends to discredit him generally. Riggin's imagination ran away with him here as a defective's is apt to do in giving details.

Riggin placed all the blame on Ramsey when he found that I knew Ramsey, though after he talked with his father he cleared up this and other misstatements. Riggin told Attorney General Brown in August, 1918, that Ramsey went by the name of Flynn. In Riggin's confession to the sheriff of Washington County in May of 1917, he said Flynn was one of the murderers. He also said Brown was one. Later it developed that Brown was an alias of Charlie Daniels, a reform school chum of Riggin's.

Riggin told me that Ramsey tried to talk to him in Tillamook when he was there with Warden Murphy. Warden Murphy said that some man tried to talk to Riggin but that he sent him away. Later Riggin admitted that this man was Daniels, alias Brown, and not Ramsey. Riggin explained that he was trying to protect Daniels as Daniels had been good to him.

Riggin when he first met Ramsey in Portland in August, 1918, denied that it was Ramsey, but the meeting was absolutely unexpected to Riggin and he trembled very much on meeting Ramsey. However, there is no doubt of Ramsey's identity. That's absolutely settled, and Riggin's father and two brothers positively identified him in the jail as the man Bill Riggin was living with in 1911. Riggin admitted that it was Ramsey the next time he saw him, so while Riggin did not tell the truth at

first, he admitted it later and explained that his fear of Ramsey induced him to deny that Ramsey was the man.

These are the statements in the confessions which tend to discredit Riggin's story of the murder.

STATEMENTS CORROBORATED

Riggin says that the night of the murder was a light night. This is true as there was a brilliant moon.

Riggin has said on every occasion that the murderers did not go in at the front door of the Hill house but went in at the back door. This is true, though the only Portland newspaper which referred in any way to the doors said that the front door was found open the next morning. This is untrue. Riggin's story is correct about this detail and it was impossible that he should have got it from a Portland newspaper. He had some other source of information. He said one man got in a window, but this is unreasonable.

Riggin showed Attorney General Brown, Mr. Collier and me just where the Hill cabin stood. This was accurate and showed that Riggin had personal knowledge of where the Hill cabin stood. However, it is absolutely established that Ramsey lived in the vicinity and that Riggin was living with him at about the time of the murder. Riggin could have learned of the location of the house even if he had no connection with the murder.

Riggin showed Attorney General Brown, Mr. Collier and me just where he got the axe. This was exactly accurate. At the time of the murder there were five different newspaper stories as to where the axe was and only one of the five was accurate. If Riggin got this detail from the newspapers he picked the right story out of five different stories. Then too he showed us the spot in August, 1918. The murder occurred June 8, 1911, and the newspaper stories were printed in three days following.

R. A. Delk said at the inquest, June 9, 1911, that the axe was "on our rear step porch—south side."

The Portland News said that the axe was left leaning against front step of his (Delk's) home.

The Journal of June 9 said the axe was standing in front of his (Delk's) house and that probably the moon shone on it and attracted the murderer, but the next day the Journal said that "he (the murderer) picked the axe from the side steps of J. T. Delk's house." (This is correct.)

The Oregonian said that the axe "leaned against a side porch."

The Telegram said that the axe was "taken from rear of house."

So if Riggin learned where the axe was from the papers, taking pains to pick the right story out of five, he must have remembered it most tenaciously for over seven years to enable him to go to the spot and put his hand on the step where the axe was taken.

Riggin showed where the murderers went after the murder. This corresponded to the trail followed by the bloodhounds to the point where the bloody rag was discovered. The story of the bloodhounds was printed in June, 1911. Riggin told his story on the ground in August, 1918.

CAN THE CONFESSION BE AN INVENTION?

In view of all the confusion of Riggin's confession and his contradictions and his obviously untruthful statement of the motive, can it be said fairly that the confession is an invention of a weak-minded man? If it was an invention, when was it invented? Was it invented in 1917 and 1918 or was it invented in June of 1911? Riggin had been in prison nearly two years when he told the story of this murder and he told it at the same time he told of the murder of William Booth, which he undoubtedly committed.

Ramsey denies all knowledge of the Hill murder but he admits that he was living in the neighborhood when it occurred.

Ramsey also says that the tall man described by Riggin was in the neighborhood at the time of the murder and that he should be looked up. Charlie Daniels is a tall man.

To go back to Riggin's wholly voluntary and surprising confession to Sheriff Applegate of Washington County in May of 1917 we find that Riggin said his accomplices in the Hill murder were Flynn and Brown. That confession was received with incredulity and ridicule, but a year and a half later Attorney General Brown, whom nobody would accuse of leading a witness, brought out the fact that Flynn was one of the names that Ed Ramsey went by. Ramsey was Riggin's partner or companion at the time of the murder, as we know from independent testimony, and was in the vicinity of the Hill house the night of the murder. It also appeared at this conference in Attorney General Brown's office in 1918 that Brown, whom Riggin told Sheriff Applegate about in 1917, was Charlie Daniels, also known to be a companion of Riggin and a friend of his in the reform school. I called up the reform school by telephone from Attor-

ney General Brown's office and got the record of Daniels' detention and the story of his low mentality and depraved habits.

So we have a clear thread of facts running through the confessions given by Riggin in his apparently contradictory and confusing statements. This was secured by patiently following Riggin's story, verifying every feature and asking for explanation of the discrepancies.

Riggin's father, who has been an industrious and respectable citizen of Oregon for many years, was especially helpful in getting explanations of contradictions and misstatements from his son.

Nothing is known of Daniels in connection with the murder except that a man answering his description was in the vicinity at the time and it is known that Daniels and Riggin were old chums.

Applying the sound principle that Riggin's confession is either palpably absurd or else that Riggin was implicated in the murder, it seems reasonable to believe that Riggin was guilty as he says he was. If he was guilty, the fact that he was living with Ramsey does not prove that Ramsey was guilty too, though Ramsey is a weak-minded man but shrewder and stronger both mentally and physically than Riggin.

However, the condition of the bodies of the murdered family indicates strongly that one man could not have been guilty of the sexual atrocities practiced. Ramsey's character in the matter of the abuse of children is known to be vicious, and Moll, whom I have quoted, points out the sadistic tendencies of men of this kind.

However, in Oregon, no man may be convicted of murder on the testimony of an accomplice unless there is corroborative evidence. Ramsey's presence near the scene of the murder early in the evening, and his threats against some woman or girl as testified to by Mr. and Mrs. Thomas Vale, might be construed as corroboration in view of Riggin's confession, especially in view of Ramsey's character and his known sexual perversion. If the facts could have been presented to a trial jury at the time of the murder, there is little doubt but that such a jury would have convicted both Riggin and Ramsey whatever it might have done about Daniels. Here were three defective men and one was known to be sexually abnormal, and another one confessed, and they were at the scene of the murder or near by.

However, at a distance of over seven years there is little

interest in any murder so far as securing a conviction goes. And yet as a study of the criminal capacities of weak-minded and abnormal men this account of the Hill murder is a contribution of considerable value to the subject. The time has passed when any innocent man could be convicted of this murder on so-called circumstantial evidence, but suspicions and doubts must remain while the theory of the detective is not shown to be unreasonable and improbable.

Chapter XVI

THE MURDER OF MARY SPINA

In August of 1918 Giovanni Monaco, aged 32 years, shot and killed Mary Spina, aged 17 years, in her father's home in Portland, Ore., because she would not marry him. He went to the room of the girl he loved, at night, and shot her seven times with an automatic revolver. He said on the stand that the reason he did not shoot her more times was because while he kept pulling the trigger there were no more shots in the revolver. The girl was asleep when he entered the room. She had refused to marry Monaco, and so he killed his love because he loved her so. Poor Mary Spina's body was riddled with bullets as she lay asleep in her father's house, and then Monaco started for Canada. He was brought back and tried for murder in October, 1918. With all the naivete of a child he testified on the stand that he was insane when he killed his love, and he gave as the chief symptom of his mental disease the fact that he had cried every day for months because his love for this girl whom he wanted to marry. When asked by the district attorney what made him crazy he replied, "Love." This completes the circle and incidentally illustrates the type of mind possessed by Monaco.

Monaco's attorney bolstered up the defense of insanity by evidence tending to show that crazy people always know when they are crazy, which will doubtless be of interest to alienists. He also brought out the statement from Monaco that he forgot about killing Mary Spina until he saw the fact mentioned in a newspaper. On cross-examination by the district attorney Mon-

GIOVANNI MONACA, a high-grade moron, who killed Mary Spina, aged 17 years, in August, 1918, because she would not marry him. Monaca has gone to the penitentiary for life.

aco said in answer to a question as to why he did not talk about killing Mary Spina while he was on his way to Canada immediately after the killing, that he had forgotten all about it. Then he was asked by the district attorney what he thought when he saw the account of the murder in the papers. His response, accompanied by an eloquent shrug, was that it was in the papers and so it was of no use to deny it.

All this story demonstrates is the childish lack of ability to reason about the effect of this silly story on the court and the jury.

The murder was a peculiarly cold-blooded and brutal one and the explanation is so silly—if it was intended seriously—that it raises a question about Monaco's mental condition.

I had a long talk with Monaco just after he was brought back from Canada and finally I asked him why he did not kill himself too. He said, "I did think about jumping off Broadway bridge that night." This is like Tronson's statement in his confession of murdering the girl who would not marry him in South Portland in 1914. Tronson got as far as Castle Rock, Wash., immediately after the murder of his loved one, but said he was planning to come back and kill himself.

Monaco shot his love seven times and snapped the revolver after that. His story and his cross-examination showed beyond any possibility of doubt that he is weak-minded or in other words that he is a child in mind. He was denied what he wanted and so he killed.

The members of the trial jury eyed Monaco in intent and puzzled curiosity, for he showed no signs of distress aside from being rather pale, and he was apparently perfectly sincere in his defense and told his story as though he were a disinterested witness. The jury did not know that Monaco was a moron, or high-grade feeble-mind, and consequently an irresponsible person. The jury convicted Monaco of murder and he was sentenced to life imprisonment in the penitentiary.

In his statement to the district attorney Monaco answered all questions readily. Q. Her father wouldn't let her go with you? A. Yes. Q. When was that? A. That was last June. Q. June of this year? A. No, June of last year. Q. After that did you stay here in Portland? A. No; not when I was going to jail the first time. Q. How long were you in jail? A. Nineteen hours. Q. Then where did you go? A. I go in British Columbia. Q. You go in British Columbia? A. Yes, for six months. Q. You were

in jail for threatening to kill her, weren't you? You said you were going to kill her, or something like that? A. No, she had a letter from me. I wrote her a letter to go away, she with me. Q. As I understand it, you have been ordered out of town twice for threatening to kill this girl? A. Yes. Q. That is right, is it? A. Yes. Q. When did you come back to Portland the last time after you were ordered out? When did you come back? A. The 3rd of this month; August. Q. What did you come back for? A. I was crazy. Q. Did you kill this girl? A. Yes. Q. Where did you get the gun? A. I get the gun in Seattle. Q. What kind of a gun was it? A. A little pistol. Q. An automatic? Inspector Morak: Do you want to show it to him? Mr. Collier: Yes. (Inspector Morak produces gun). Q. Examine the gun I hand you and state if that is the gun you used. (Hands gun to prisoner.) A. I guess it is, yes. Yes. (The gun so handed to prisoner is identified as a .25 Colt's automatic, No. 168199). Q. Is that the gun you got in Seattle? A. Yes. Q. When did you get the gun? A. When I was going to Vancouver last year. Q. When they sent you to jail in the month of May, you made up your mind if you got out you would kill her? A. Yes. If she married me, all right. If she didn't, I going to kill her. Q. And you made up your mind to do that last May? A. Yes. Q. That was why you came back? A. Yes, that is all, for that cause. I was crazy. I never can get in the city and all the time will be crying and sore of that thing. Q. So you didn't have any other business in Portland, but came back here for the express purpose of killing her? A. Yes, that is all. Just for this deed. That is true. I don't care if they send me to jail all my life. I want to tell the truth. Q. You knew it was wrong to kill her, didn't you? A. She done me wrong and sent me to jail twice. Q. You knew it was wrong to take life, didn't you? (Talks in Italian to Morak.) Inspector Morak: I didn't have no more brains then. Q. As a matter of fact, you know you shot her while she was asleep. She didn't wake up at all when you shot her? A. No, she was waked up a little bit. Q. Did she say anything to you? A. No. Q. Did she say anything to anybody? A. Just "Oh, Ma." Q. Started to call for her mother? A. Yes. Q. And then you shot her? A. Yes. Q. Where did you shoot her first? A. I don't know. Q. How many times did you shoot her? A. Oh, I think all seven times. Q. Why did you run away? A. I was scared of the police. Q. Why? Did you think they would kill you? A. No. Q. Why were you scared of the police then? A. Afraid

of arresting. Q. Afraid of being arrested? A. Yes. Q. You wanted to get away? A. Yes. Q. You knew what you had done? A. Yes, I knew what I had done. Q. You knew that it was wrong to do that? A. Yes. Q. And you were running and trying to get away from that? A. Yes. Q. You didn't want to be caught? A. No. Q. You knew that if they caught you you would be punished? A. Yes. Q. You knew you would be punished for doing wrong, and you knew you had done something that was wrong? A. Oh, yes, sure. Q. And that was the reason you were running away? A. Yes. Q. Don't you feel badly that you killed this girl? A. Yes, but I am satisfied now that I have.

There has been no psychological test made of Monaco, and so I shall have to let the story of his crime and his confession (as compared with confessions of feeble-minded delinquents) indicate his mental status.

Chapter XVII

CONCLUSION

There can be no doubt but that sooner or later society must take an intelligent interest in defective and delinquent children not only because the defective and delinquent child is practically certain to grow into a criminal, but because defective stock reproduces its own kind. Of course the union of defective and normal individuals will produce some normal offspring as well as defective offspring, but even here succeeding generations will show defective beings born of apparently normal parents. Among individuals blessed with more sentiment than hard sense the theory that good environment will radically improve a defective strain is still very common, but it is inconceivable that anyone who professes to believe that human beings can breed in haphazard fashion with good results would for an instant contemplate breeding a thoroughbred horse with a scrub, or a greyhound with a mongrel, with any hope of protecting the progeny from deterioration.

Of course the conditions of civilized society have made the ideas of personal freedom and the sanctity of life the most important subjects for human thought, but personal freedom in

society involves a degree of responsibility and self-discipline which a defective being cannot comprehend, much less exercise.

The idea of the sanctity of human life does not even require defense or discussion if we are willing to apply its first principles to the question of reproduction. To grant wholesale license to defective men and women to propagate defectives who are certain in many instances to destroy human life as the weak-minded beings whose life stories have been told in the preceding chapters have done, is to disregard the sanctity of human life instead of striving to protect it. The sanctity of human life is a mutual affair if there is anything in the idea at all. We cannot guard the defectives alone from destruction and allow them the liberty to kill normal people, and in view of that truth we are bound to segregate the dangerous defectives and to prevent all of them so far as possible from reproducing their kind. Of course there will always be a certain number of the defectives due to inherited syphilis, alcoholism in the parents at the time of conception, injuries at the time of birth and acute diseases in infancy, not to mention the family strains where there is an inheritance from some defective ancestor which occasionally produces a defective child. This burden society must always carry just as it must provide for the crippled, the diseased and the insane, but it is quite unnecessary to encourage or tolerate the certain reproduction of any defective stock. The kindest regard and support of those defectives who are here does not include encouraging them to become parents. That is as foolish as to propose wholesale euthanasia.

There will be difficulties in the way, of course, in limiting the reproduction of defectives, but the colonization of females of the child bearing age will undoubtedly be the principal method, for the simple reason that a normal woman will very rarely mate with a feeble-minded man, while there are unlimited numbers of men who will cohabit witb feeble-minded women. Then, too, sterilization of the feeble-minded male is a very simple operation. A number of states have sterilization laws for individuals in prisons and other state institutions, but while some of these laws have been decided to be unconstitutional for the obvious reason that such a law is class legislation, still if such a law were made generally applicable to males at least it would not be open to that objection.

As I have said in a previous chapter, not all the defectives have strong criminal tendencies, but many of them do have

such inclination and they usually appear in the adolescent years, not perhaps as criminal acts but as tendencies which are bound to grow. Very little can be done to check them because a weak-mind offers no foundation on which to build character, though such a mind may and often does know the difference between right and wrong.

This knowledge of right and wrong combined as it is in the weak-minded with lack of ability to deal in abstractions and the consequent inability to foresee consequences together with an almost utter lack of power of inhibition or self-control forms the great stumbling block for the public in understanding and dealing with the feeble-minded criminal. It has been the iron-clad custom for hundreds of generations to hold the individual responsible for his conduct when he knows the difference between right and wrong, and this custom may be said to be the foundation principle of the criminal law in all countries. The principle is perfectly sound of course for all normal persons, but it has been recognized by the courts that it does not apply to insane persons for obvious reasons. In the case of Jean Gianini, reported by Dr. Goddard in his "Criminal Imbecile," it was recognized by the court that Jean was a high-grade defective and that his rudimentary knowledge of right and wrong did not make him morally responsible for his acts, though the necessity of permanently confining him was recognized and acted upon.

At the trial of Guiteau for the assassination of President Garfield insanity was made the defense. The experts differed widely, as usual, and Judge Cox in his charge to the jury laid down the principle that if it was apparent in view of all the testimony, including of course that of the alienists, that Guiteau knew the difference between right and wrong that the jury should hold him responsible for his criminal act and should find him guilty of murder in the first degree. The jury did so find, and in view of public opinion it could not have done anything else. Indeed, so deeply is this idea of moral responsibility held to apply to any human being who has any intelligence at all, and by that I mean the average intelligence of a child of say seven years, that it is a matter of policy to convict paranoiacs or imbeciles, as the legal term has it, who present no violent or obtrusive symptoms for the jury to witness, where the evidence shows that the individual has committed a crime. So far as the individual is concerned it may not make much difference to society, but the alternative logical application of the principle to other defective

persons is tragic in its consequences, for they are allowed to go their ways and given opportunities to commit terrible crimes, and to reproduce their own kind.

This system also fosters general ignorance of the criminal capacities of the weak-minded and encourages the belief that such persons are harmless. It is true that some of them are harmless, but the preceding chapters show what terrible crimes are committed by the high-grade defectives and how because of their reputation as harmless beings innocent persons may be convicted of murder and their lives practically destroyed.

This is the direct outcome of popular ignorance on the subject, which is fostered and maintained by the courts and prosecuting attorneys partly through ignorance and partly through slavish obedience to custom. One of the worst consequences of this attitude of the courts and prosecuting officers is the effect on sheriffs, police officers and detectives whose business it is to discover the perpetrators of crime. They are selected somewhat at random and given the power of the state to pursue and arrest criminals, but it is beyond the bounds of reason to expect untrained minds to understand the criminal capabilities of such delinquent defectives as John Sierks, William Riggin and others described in this volume. Unless there is direct evidence of such a feeble-mind committing a crime, the detectives in cases where there is only circumstantial evidence, would be the first to eliminate the weak-minded persons as beyond suspicion. The more horrible and apparently unprovoked the crime the less they would be disposed to suspect a member of an unfortunate class who have been known as "innocents," "half-wits," "naturals," "simple-minded," "fools" and other names indicating their weakness of mind. At the same time the officers argue that as a crime has been committed somebody must have committed it, and in the absence of any legitimate clue suspicion is certain to be raised against some person within reach by some ill-natured gossip or by some interested person, as in the case of the Wehrman murder.

Our system of detection and punishment of crime is not only based on very incomplete knowledge of the subject but through our system of election and appointment of officers of the law it becomes in part a matter of politics, which means that if a terrible crime is committed our politically selected officers must find somebody to punish for it or they will go out of office at the next election. In cases where there is no direct evidence the

only thing to do is after a man is found who was near enough to the scene of the crime to have made it physically possible for him to have done it, and who cannot establish an alibi, to raise the hue and cry, as was done in the case of Arthur Pender, by saying that as a soldier in the Philippines he killed Filipino girls. This was justified on the ground that somebody killed Mrs. Wehrman, and Mr. Pender lived only a mile away, and as there was no evidence that anybody else did it he must have been the murderer. The weight and influence of official proceedings convinces the public through the newspapers that probably the man who has been arrested by the sheriff is the guilty one.

In the case of Arthur Pender by means of an industrious propaganda he was made out a perverted brute, and the detective who secured his conviction was paid by the county where the murder was committed, though he was not paid as much as the sheriff wished to have him paid. The sheriff was in serious trouble himself on account of charges affecting his honesty as an official, and he needed some sort of vindication badly, while the public wanted somebody punished for this terrible double murder.

If district attorneys had the power to direct criminal investigations there would probably have been a different sort of an investigation of the Wehrman murder, but the district attorney had to take what the sheriff furnished him. He also was in a difficult situation, for the Wehrman murder was committed only three months after the sadistic murder of the four members of the Hill family, and that murder occurred in his district and he had resolutely stood against the prosecution of an innocent man who happened to be a neighbor of the Hills. To the disinterested observer it was apparent that the district attorney must take the sheriff's evidence and fight to convict Arthur Pender or retire from public life.

The district attorney did not retire from public life. He did accept the evidence furnished by the sheriff and the detective hired by the sheriff and he succeeded in convicting Mr. Pender of murder in the first degree two years after the crime was committed on the extremely flimsy circumstantial evidence which was offered and the court imposed the death sentence by hanging.

THE GOVERNOR'S ATTITUDE

John Arthur Pender was taken to the state penitentiary to be hanged in the latter part of Governor Oswald West's admin-

istration. Upon application made to Governor West for pardon for Mr. Pender he commuted the sentence of hanging to life imprisonment. Just in the last days of Governor West's administration John G. H. Sierks confessed to the murder of Mrs. Wehrman and her child, but within three days he repudiated his confession after hearing from his father that the family would go away and never see him again as he had disgraced them. That was doubtless the strongest appeal which could have been made to a childish intellect, and the man with the child's mind after writing a frank letter to his father (unknown to anyone) in which he admitted his guilt, decided the next day to back out of his confession and say it was a "black lie." In this situation Governor West decided to pass the problem on to his successor, Governor Withycombe.

Governor Withycombe never believed that John Arthur Pender was guilty of the murder of Mrs. Wehrman and her child and he was greatly interested in the investigation which I had begun before he went into office. In fact, he furnished about $200 for expense money for the investigation of clues which were furnished by John Sierks in his confession. In the Spring of 1916 the facts were all verified apparently to Governor Withycombe's satisfaction, but to further satisfy himself he appointed Mr. Richard C. Lee, a former newspaper man of high standing and intelligence, to make an independent investigation. Mr. Lee went over the ground and interviewed all the witnesses whom he could find and talked to the judges who presided at the trials. He also read all the evidence from that at the coroner's inquest and the preliminary hearing to the second trial. His conclusion in his report to Governor Withycombe was that it was absurd to claim that Mr. Pender had any connection with the murder except that he lived about a mile from where it happened. Mr. Lee says that his report contains some curious facts. One was that Judge Campbell, who tried the case the first time (when the jury disagreed) said to him that he decided if the jury brought in a verdict of guilty to set aside the verdict.

In the matter of the murder of William Booth in 1915 and the confession of the crime by William Riggin in the spring of 1917, Governor Withycombe, upon my pointing out to him the possibility that the confession was true in view of the fact that the evidence against William Branson and Mrs. Anna Booth was purely circumstantial, gave the warden of the penitentiary instructions to make an investigation of all the facts of Riggin's

confession. Warden Murphy invited me to join with him in this investigation and I was glad to do so. A detailed report was presented to Governor Withycombe on December 1, 1917, by me, and the report of Warden Murphy was presented to the Governor four months earlier.

District Attorney Conner, who convicted William Branson, and who agreed to consent to a pardon for Mrs. Booth in a year's time if she would plead guilty to manslaughter, made a most positive protest against a pardon for William Branson and Anna Booth. Mr. Conner was elected in a three-cornered fight by a narrow majority, and this murder trial was the big event of his term of office and incidentally it cost the county $11,000.

Governor Withycombe made a rule not to grant pardons without the consent of the prosecuting attorneys. The Governor is required by law before granting pardons to inquire of the judge or district attorney concerning the case, but of course he is under no obligation to follow the suggestion of either. He has absolute power under the constitution to pardon any person convicted of crime, and in fact this is the only method provided by which a person unjustly convicted of crime may be saved from an unjust fate.

In the matter of the pardons of John Arthur Pender and of William Branson and Anna Booth the Federation of Women's Clubs in Portland appointed a committee in December, 1918, to intercede with the Governor for these persons unjustly convicted of murder, but the Governor wrote the committee that he could do nothing in these cases as the district attorneys who had convicted these persons objected to his taking any action.

This brings into strong relief the political power of the district attorneys of Oregon and indicates the truth of the remarks of students from other nations "that the American people do not govern themselves, but are ruled by a class of men who are known as politicians." However at the last election less than 50 per cent of the voters went to the polls in Oregon, so perhaps the voters prefer that the politicians should rule.

In the matter of the Hill murder, the district attorney of Clackamas County, who by the way is a very different person from the district attorney who refused to prosecute (in effect) a neighbor of the Hills, has treated the information which I have furnished him with the most profound contempt and has absolutely refused to investigate for himself. It is true that he made a contract with a consideration of $2000 with the private de-

tective who was hired by the sheriff who collected the evidence against Mr. Pender in the Wehrman murder, to secure the evidence in the Hill murder. However, Clackamas County refused to pay the $2000, and the detective had to enforce collection by a suit in court which he won. It is also true that the district attorney has never attempted to use this evidence, which cost so much, in any prosecution.

In the Hill murder case, William Riggin, who confessed, is in the penitentiary but is eligible for release, and one of his alleged accomplices was living in the woods in a suburb of Portland in February of 1919. Riggin's term will expire in a year or two and he will be free to "get" one other man whom he has threatened.

The practical thing for consideration in these three murder cases involving the destruction of the lives of seven people, is that out of all the warring influences and bitter personalities sufficient interest has been aroused to actually secure careful investigations of the murders, and it undoubtedly now rests with the general public to say whether the three innocent persons in the penitentiary who were wrongfully convicted shall be released in the name of common justice, and whether the defective and criminal beings who killed the Hill family shall be permitted to go at large.

This volume was prepared for this purpose, and for the infinitely larger purpose of bringing the question of the criminal tendencies of high-grade feeble-minded men before the public in order that sensible measures may be considered for limiting the procreation of feeble-minded stock.

The End.

APPENDIX A

CONFESSION OF WILLIAM RIGGIN

"I, William Riggin, under oath, do make this my true and voluntary statement, to-wit: Branson and Mrs. Booth are not guilty of killing Booth. I shot William Booth; Booth always had it in for me, and one time called me out of the poolhall in

Willamina and told me that I had a bad name; said for me to leave his wife alone. I told him, "To hell with him." He slapped me one the side of the head. Another time I was standing on a street in Willamina and Booth came along and said to the other fellow he was with, "There is a con."

"He always had it in for me. I said to myself that I was going to get him. I think he tipped me off to the Game Warden. He always kept picking at me. On October 7, in the forenoon, I went down past Dud Lee's place and got to talking with him about Booth. He knew that Mrs. Booth and Branson were going together and that Booth was jealous. He told me that Booth was going up in there all the time, trailing Billy Branson. Booth watched me like a hawk and was jealous of me.

THREE SHOTS FIRED

"On October 8, in the morning, I took a .32-20 rifle and a .38 Smith and Wesson hammerless revolver, blue steel, and went up to the timber to practice shooting and wait for Booth. I had a lot of mixed shells for the .38; some hand-loaded and some were not. I practiced shooting for about two hours; I did not expect to find Booth; I came down the road and saw Billy Branson and Mrs. Booth talking together; when I passed them they were off at the edge of the road just a few feet from the edge of the road; they did not see me, or did not let on that they saw me.

"I don't know that they saw me. I passed them and went down the road for about 200 yards and circled around and came back. I circled around to the left. I was about 40 yards from them. There was some brush and timber between me and them. I stood there and watched them. I saw Booth coming across the field to the left of me, and when he was about 100 yards off I shot at him with the rifle. He stopped and looked around and I ducked down on the ground. He came on across and I waited until he got to about 30 yards from me and I shot him with the revolver. After I shot he partly turned around and fell kind of on his left side. He said 'Oh, my God.' I shot at him again and when he was on the ground, but I think I missed him.

ESCAPE IS EXPLAINED

"I would have shot all the shells at him, but I was afraid someone would see me. I lit out to the left and went down through the brush. I walked to a vacant shed near Willamina where I had a horse that I hired from a stable in McMinnville, got on the horse and beat it. The shed is near an old sawmill at the edge of Willamina. It was a spotted pony with roached mane. I rode out through Gopher Valley and past Baker Creek Falls and passed Jerry Funk's place to Walker Flat. I took the horse into McMinnville and turned him loose in the stable, but not the stable that I hired him from. I got the horse out of the Red Front barn and turned him loose in the barn below the Commercial Hotel. There was no one in the barn. I rode right in the barn and jerked the bridle off him and loosened the saddle and put him in the stall and left. I walked back to Walker Flat

and stayed for three days with a man who was making boards and posts. I went on over to Tillamook and ditched the revolver and belt at Pinkey Stillwell's place on the road to Tillamook. I put the revolver inside the picket fence. At the time the shooting took place I wore a blue shirt, corduroy pants and high-top corked shoes.

WILLIAM RIGGIN."

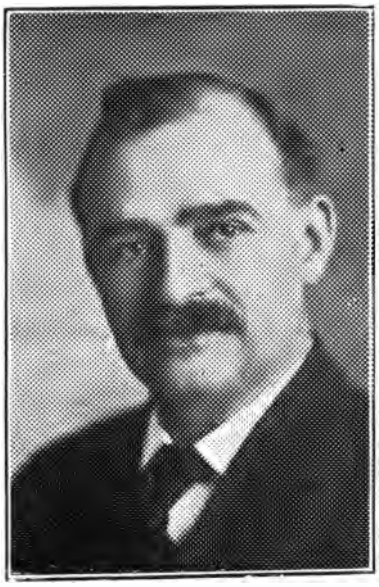
APPENDIX B

CONFESSION OF JOHN G. H. SIERKS

"I, John G. H. Sierks, say that on Labor Day, September 4, 1911, I had been drinking with some men on the farm of J. L. Smith, about five miles from Hillsboro, and went to bed about seven o'clock; then got up about seven thirty and walked over to Allavatch, a station on the United Railways, and took the Electric car for Burlington. There I got off and stole a speeder from the Burlington car shop section boss and went down to Scappoose on the Northern Pacific line, there crossed over and went on the logging road which crossed over to this woman's place—crossed at Parson's Station. There I ditched it and went over and stole a revolver out of a trunk in Hasson and Riley's cabin, broke it open with a claw hammer in Hasson and Riley's cabin. This claw hammer had only one claw. I took this claw hammer and threw it in Pender's tent, then went up to this woman's cabin. I found Mrs. Wehrman coming from the house with a lantern—this was about ten o'clock. I saw her go in the house and asked her for —— and she objected and spoke to me harshly. She went into the house and got a gun and shot at me. The bullet went into the cabin at the right hand of me as I went in. I pulled out my revolver from my hip pocket and fired three shots at her. I fired one shot at her from a distance and she fell and then I placed the gun close to her forehead and fired; I then placed it on her chest and fired again. The boy was lying in bed with his clothes on. I thought he would wake up and squeal on me so I fired at him. I placed the gun close to his head and fired two shots. I found a hatchet in the wood box and chopped and split her skull. I went over and took her drawers off, then I ravished her. I was afraid someone would catch me. I ran out and washed my hands in a basin on the porch; the towel was hanging by the door and I wiped my hands on it. Then I padlocked the door. I took the key and throwed it away, then I took the gun back to Riley and Hasson's cabin and put it in the trunk. The gun I took from Mrs. Wehrman I buried in the edge of the garden. Then I went down where my car was, put it on the track and rode to Burlington; then I took the midnight out from Burlington to Allavatch Station. I got home about four o'clock in the morning. I went to bed. I got up about six o'clock that morning and went to work shocking grain. My mother and I talked this over but I refused to say anything about it. She believed that I did it.

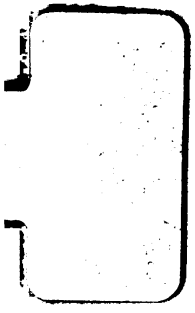
JOHN G. H. SIERKS."

ALBERTINA KERR NURSERY
Portland
One hundred twenty-five babies cared for in 1918. Mr. MacLaren hopes to construct a fireproof nursery in 1920 with larger capacity.



W. G. MacLAREN
General Superintendent of the Pacific Coast Rescue and Protective Society
The Louise Home, the Everett Home, the Albertina Kerr Nursery, and the Elizabeth Cottage for Defective Babies are all institutions established by this society and under its management.

ELIZABETH COTTAGE FOR DEFECTIVE BABIES
Portland
This is the only institution for feeble-minded babies in Oregon.

HOME FOR UNMARRIED MOTHERS
Everett, Washington
Seventy-one girls cared for in 1918.

LOUISE HOME FOR UNMARRIED MOTHERS
Portland
One hundred nine girls cared for in 1918.